SENATE—*Thursday, June 23, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us pray for Leila Dais, who works in the dining room, serves in the dining room, on the loss of her father on Father's Day; and for Frank Smonskey, and his loved ones—he is an official reporter—in the tragic death of his great niece and her husband.

How are the mighty fallen * * *.—II Samuel 1:25.

Eternal God, as David joined the nation, Israel, in mourning the fall of King Saul, so our Nation has been traumatized by the fall of a great hero. We pray for O.J. Simpson. Whether he is innocent or guilty rests with our system of justice. But our hearts go out to him in his profound loss. Whatever the circumstances, he has got to be hurting deeply. As the wheels of justice slowly grind, may he be comforted by the sense of the presence of the God who loves him.

Give consolation, gracious Lord, to the unnumbered who have been disillusioned by the fall of their idol. We realize that leaders have much farther to fall than followers, and we ask for a special dispensation of grace for this American hero, his loved ones and all who are hurting irreparably by this event.

We ask, too, for Your comfort and consolation to the victims and their families and all those who loved them.

We pray in the name of Him who loved us and gave Himself for us. Amen.

The PRESIDENT pro tempore. The Senate will be in order.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 9:40 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. INOUYE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Hawaii.

ORDER OF PROCEDURE

Mr. INOUYE. Mr. President, may Senator MCCAIN and I control 20 minutes?

The PRESIDENT pro tempore. Is there objection to the request? Hearing no objection, it is so ordered.

The Senator from Hawaii will control 10 minutes. Is that the Senator's wish? And the Senator from Arizona will control 10 minutes.

Mr. INOUYE. I thank the President.

(The remarks of Mr. INOUYE, Mr. MCCAIN, and Mr. WELLSTONE pertaining to the introduction of S. 2230 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. WELLSTONE] is recognized for not to exceed 5 minutes.

Mr. WELLSTONE. Mr. President, it is my understanding I have a bit more time to speak by prior agreement.

The PRESIDENT pro tempore. The Senator is correct.

The Senator from Minnesota, under the previous order, has control of up to 15 minutes.

Mr. WELLSTONE. I thank the President.

HEALTH CARE

Mr. WELLSTONE. Mr. President, I was going to propose an amendment to the Department of Defense bill which reads as follows:

> Congress should enact health care reform that guarantees everyone health care as good as the health care that will be available to Members of Congress under that reform.

Mr. President, it is very rare, at least in my 3½ years in the Senate—I have not quite had the long, distinguished career that the President pro tempore has had—that I have proposed a nongermane amendment. I really do not like to do that.

But I wanted to propose this amendment for a couple of reasons.

One, I am impressed with the strength of the President and the First Lady and what they have been saying, especially this last week, about the importance of universal coverage, decent coverage for people.

I have been listening to my colleagues on both sides of the aisle on the floor, and in reading reports back in their communities. It seemed to me that there was a consensus here that really, in the final reform bill that we pass—and I believe we will pass a health care reform bill that will be historic, and I am optimistic it will be a step forward for people in our Nation—that however our plan in the Federal employees benefit package is configured or reconfigured, basically, we want to use that as a yardstick and make sure the people we represent have the same quality plan in terms of what is covered, and in terms of making sure it is affordable and that the copayments are not too high.

So I thought this amendment, given the intensity of the debate and where we are in the debate, would be a real contribution with Senators really going on record saying: Yes, we agree with this principle, absolutely. When we look at our plan, we want to say to the people we represent that in the final reform bill, you should have the same, comparable quality plan.

Now, Mr. President, this is treading on sensitive ground. I do not want people who are listening to believe that our coverage right now, for example, is by any means great or perfect. It is not. It is not good on dental or vision care. Long-term care is not covered, at least institutional long-term care. It is by no means 100-percent comprehensive coverage for benefits.

On the other hand, when you look at inpatient and outpatient benefits, and look at well-child care, offering delivery at birth centers, coverage of care by nurses and midwives, prescription drugs, pap screening, home health care, and mammograms, and other such features, we have very good coverage, better, probably, than most people in the country.

So actually, Mr. President, I did not think this would be controversial.

I hear some of my colleagues talking about how we need to water down the benefits, saying that we really should not make decisions exactly what the coverage will be; we really cannot have universal coverage, it should be 91 percent. And I have to ask: Who is not covered? People with a disability? The poor? People who live in rural communities? Older people?—I worry about those kinds of comments.

So I thought what a positive statement for the Senate to make, just to go on record.

Mr. President, my colleagues on the other side of the aisle said that they would second degree this amendment, I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

think probably with a very specific amendment that would get us right into the specifics of the legislation that is now moving through committees.

I do not want for us to have that kind of long debate right now on the floor of the Senate when we are dealing with the Department of Defense bill. That, to my mind, just simply crosses the boundary, and I think it probably is not the direction we should go.

So with the understanding, Mr. President, that basically we are all going to operate within this framework of not really zeroing in on the health care right now, that that debate will take place in July—the majority leader has made it clear to all of us that bill will be on the floor in July—I am not going to put this amendment forward at this time. I think if I do so and then there is this second-degree amendment, we are going to get into a long, long debate about all sorts of specifics in health care, and at this point in time that would be a mistake.

The Finance Committee, I believe, is going to report out a bill and a bill will come to the floor.

So with the understanding that that is our framework and that these health care amendments are not going to be part of DOD, with that understanding, then, I am not going to put this amendment forward. Although I must say there will be a time to do so, certainly between now and July or maybe when the bill comes to the floor in July or maybe before, because this is such a—no pun intended—healthy statement for us to make.

I think we should, again, avoid all the sort of temptation to say, "Well, everybody in Congress has everything perfect." That is not true. There are places where our coverage should improve and could improve for ourselves and our family and loved ones.

But the real point, in the final reform bill, is let us just make sure, as all of this is reconfigured, whatever plan we have, that the people we represent have as good a plan.

So what do we have in general by way of summary? We have universal coverage. All of us are covered. Our employer, the Federal Government, contributes a significant percentage and we contribute. That seems to me to be fair. So you have, if you will, an employer mandate. All of us can afford the health care coverage that's available. There is no preexisting condition exclusion, which I think is extremely important. That is one of the things that outrages people in Minnesota—and I am sure in West Virginia—most, that because of a prior illness or condition of sickness you cannot even receive coverage and, if you can, the premium rate is so high you cannot afford it. And the final thing we have is a very good package of benefits.

That, I think, is a commitment we made to the people, that in the reform bill that is what we will include.

Mr. President, just on two other subjects, very briefly.

I do want to submit as a part of this statement a letter from many different health care consumer and provider organizations around the country to President Clinton, making it very clear to the President that we support universal coverage; we do not see how you can do it unless you have employers making a contribution, some kind of mandate; we want to make sure it is affordable; we want to make sure it is out in the communities; and, Mr. President, we want to make sure—and this is really, I think, a part of the consensus here, as I understand it—that States in our grassroots political culture will have the option to implement a single payer plan.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 23, 1994.

DEAR BILL: Last week several senators and I sent you a letter urging continuing firm support for universal coverage as a key feature of health care reform.

Several organizations of health care consumers and providers expressed their interest in communicating the same message to you.

I am pleased to present you with a list of the groups that offered to sign the letter. I'm certain we are both encouraged that this impressive list of groups support 100% universal coverage, employer mandates, affordable care, cost containment, and the option for states to implement a state single payer system.

Even more encouraging to me was the signal that so many groups and individuals are ready to respond to requests from Washington to show their support for these key issues.

Many of us in Congress, and millions of Americans around the country, are ready to stand up and make sure that health care reform will not be hijacked by big ticket special interests.

We know that we need health care reform, and we need it this year.

All of us appreciate the most recent comments you and Mrs. Clinton have made on the importance of passing a bill that is unequivocal on the issue of universal coverage. I know that I speak for us all in offering any help we can provide in assuring that we accomplish that goal in the 103rd Congress.

Sincerely,

PAUL DAVID WELLSTONE,
U.S. Senator.

JUNE 23, 1994.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Our organizations have always shared with you a commitment that universal coverage must be the cornerstone of health care reform. That commitment cannot waver as we continue our progress in Congress to enact comprehensive health care reform legislation.

We are troubled by comments from the press and some Members of Congress that universal coverage is not a realistic goal.

Universal coverage is impossible unless it meets several critical tests. First, it must include meaningful, employer-based financing. Unworkable proposals that would put the burden on individuals to pay most of the costs of their care, or project employer contributions into some distant future, cannot achieve the health care reform that Americans are counting on.

Second, all Americans must be covered. Suggestions that universal coverage should be defined as something less than total coverage, such as 90 percent or 95 percent, would continue to leave millions of Americans vulnerable to the double plagues of illness and impoverishment. Anyone could lose the lottery: people who work and those at risk of losing their jobs, the elderly and people with disabilities and their families, people with cancer and people with AIDS, people in rural areas, women, men, children.

Third, coverage must be affordable. Meaningful cost containment must be included to protect businesses, individuals, and government entities contributing to the system.

Finally, states must have the ability to adopt a single-payer system if they determine through their own legislative processes that would be a fairer or more cost-effective approach to universal coverage.

Universal coverage is not only a humane goal, one which most industrialized countries have attained. It is also key to making health care affordable because it would end wasteful and inflationary cost-shifting, encourage preventive care, and allow more appropriate use of resources. Suggestions that we waste more years and more lives tinkering around the edges of almost covering everyone, trying to make health care almost affordable, are a diversion from the fair and workable framework you have presented. In addition, it would send an unwelcome signal to the country that its elected leaders are unwilling to take the long overdue step of guaranteeing that every American enjoys health security.

We ask that you remain strong in your commitment to universal coverage, affordable for all and fairly financed. While there will be areas for compromise during the legislative process, assuring universal and affordable coverage must not be among them. We will assist efforts toward the goal of true universal coverage for health care in any way that we can.

Sincerely,

Actors' Equity, Ron Silver, President.
ACTUP Washington.
AIDS Action Council.
American Association of Children's Residential Centers.
American Association for Marriage and Family Therapy.
American Association of Pastoral Counsellors.
American Association of Physicians for Human Rights.
American Association of University Women.
American College of Physicians.
American Counselling Association.
Americans for Democratic Action.
American Federation of State, County and Municipal Employees.
American Medical Students Association, Terrence Steyer, National President.
American Psychological Association.
American Public Health Association, Eugene Feingold, President.
Association of Maternal and Child Health Programs.
Association of Mental Health Administrators.

Judge David L. Bazelon Center for Mental Health Law.
California Society for Clinical Social Work.
Campaign for Women's Health.
Children's Defense Fund.
Churchwomen United.
Citizen Action.
Consumers Union.
Creative Coalition, Blair Brown, Co-President.
Family Service America.
Gray Panthers.
Health Care for the Homeless.
InterHealth, St. Paul, Minnesota.
International Association of Psychosocial Rehabilitation.
International Brotherhood of Teamsters.
Internatinal Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (IUE), William H. Bywater, International President.
Legal Action Center.
Lutheran Medical Center, Brooklyn, N.Y., Jim Stiles, Executive Vice President.
National Association of Community Health Centers.
National Association of Homes and Services for Children.
National Association of Protection and Advocacy Systems.
National Association of Public Hospitals.
National Association of Social Workers.
National Association of State Alcohol and Drug Abuse Directors.
National Community Mental Health Care Council.
National Council of Churches of Christ in the U.S.A.
National Council of La Raza.
National Education Association.
National Federation of Societies for Clinical Social Work.
National Mental Health Association, Mike Saenza, Chief Executive Officer.
National Rainbow Coalition.
National Women's Health Network.
New York StateWide Senior Action Council, Inc., Ruby Sills Miller, Member of the Board.
Oil, Chemical and Atomic Workers International Union.
Older Women's League.
Protestant Health Alliance.
Screen Actors Guild, Barry Gordon, National President.
Service Employees International Union.
Sigerist Circle of Medical Historians, Elizabeth Fee, President.
Unitarian Universalist Association of Congregations.
United Automobile, Aerospace & Agricultural Implement Workers of America International Union.

(Mr. KOHL assumed the chair.)

FAMILY VIOLENCE

Mr. WELLSTONE. Finally, Mr. President, let me on the floor of the Senate express not my self-righteousness but nevertheless keen disappointment at the direction of at least part of the deliberations of the conference committee on crime.

I know people in the conference committee are very committed, and I appreciate their work. But, as I said yesterday on the floor of the Senate, there is this focus on family violence in our country, and there are some important initiatives right now that are in that crime bill.

Senator BIDEN's Violence Against Women Act is so important, and other fine works.

There are two amendments that are extremely important. One deals with setting up safe visitation centers for children and for women that I talked about yesterday. I believe that would be part of the crime bill.

But, Mr. President, I do not understand for a moment the hesitancy or, for that matter, I would say, the efforts to block one other amendment. We had an amendment that we passed on the floor of the Senate that went into this crime bill. That amendment said—I introduced that amendment—if you have committed an act of violence against a spouse or a child, you will not be able to own or obtain a firearm; or if there is a restraining order against you, you will not be able to do so.

The problem, Mr. President, is that all too often and in all too many States if a man, if that was the situation, was to batter his neighbor's wife, it would be a felony; but if he battered his own wife, it would be a misdemeanor.

We say in our country, if you committed a felony, you should not be able to own a gun, but we do not consider battering to be a felony.

My understanding about what is going on in the conference committee is that some people in the conference committee are making the proposal that, yes, you cannot own a gun if, in fact, you have committed a felony and acts of violence that is considered a felony, but the problem is it is not considered a felony in so many States.

Mr. President, I have talked to many people in Minnesota who say, "Don't ever take our sporting rifles away from us." I agree. "Don't you go overboard on gun control."

You and I, Mr. President, both feel strongly about some of these measures. But I agree with people who say that.

Those same people say to me, "Yea, Paul, this is reasonable."

So many women murdered, I think about a third, because of a gun. The difference between being a battered woman and a dead woman is a gun.

"Yea, Paul, we agree. If someone has committed an act of violence against a spouse or child, he should not be able to"—or in some cases, rare cases, she should not be able to—"own a firearm."

And certainly, with a court order, that should be the case.

I do not understand the hesitancy about this. I do not know whether this amendment that I will bring to the floor of the Senate today or tomorrow will really get some national focus on this, or exactly what we do, but I think now is the time to pass this. And I believe it must be a part of the crime bill.

I think we have reached a conclusion in our country, as a people, that: First, for all too many women and their children, the home is a very dangerous place; second, family violence knows no boundaries; it happens everywhere in all communities; and, third, it is a crime, and people must be held accountable.

If it is a crime, then it strikes me this is a very reasonable proposal to take guns and firearms out of the hands of those who have perpetuated this violence.

So I hope that in the conference committee we will get a favorable result. But I have a feeling we are going to have to fight very hard for it; maybe I will have to fight on the floor of the Senate to create some of that national pressure.

I yield back the remainder of my time.

JACQUELINE KENNEDY ONASSIS

Mr. LIEBERMAN. Mr. President, "Many women do noble things, but you surpass them all," writes the author of Proverbs, chapter 31. The life of Jacqueline Kennedy Onassis was a life of nobility, in the finest sense of the word. She elevated a nation, especially so during a time of great crisis, and now that she is gone, we keenly feel the loss, as if a member of our family had passed away.

What is especially poignant about her life is that she never sought the kind of fame she attained. Rather, it was thrust upon her, first through marriage to a Senator with a growing national reputation. Then as First Lady, when Senator John F. Kennedy became president. But Jacqueline Kennedy was not content to simply suffer the limelight she never wanted. She went to work, in public ways and private, to the benefit of all the American people. She transformed the White House from a place to a national treasure; from an address to a destination. Its beauty today and through the ages to come are due in no small measure to Jackie Kennedy's sense of history, art and style.

Perhaps most important, Jacqueline Kennedy held a nation together at a time when the tragedy of John Kennedy's assassination threatened to pull us apart. Minutes after holding her dying husband in her lap, she stood by the side of the new President, as he was sworn into office, symbolizing the peaceful continuity of democracy that is at the heart of America's greatness. And in the difficult days that followed, the First Lady not only bore herself with grace and strength, she directed the funeral that will be remembered throughout history for its power, emotion, and meaning.

In the years since the triumph and tragedy of the presidency of John Kennedy, Jacqueline Kennedy Onassis dedicated her life to what she would probably consider her greatest accomplishment: loving and raising two wonderful

children, whose own lives carry on the legacy of service exemplified by John and Jackie Kennedy.

The life of Jacqueline Kennedy Onassis is in itself a profile in courage, and a grateful nation will never forget her courage and all that she meant to us. "Give her the reward she has earned," it says in Proverbs 31, "and let her works bring her praise at the city gate."

WELCOMING RUSSIAN MEMBERSHIP IN PARTNERSHIP FOR PEACE

Mr. PELL. Mr. President, yesterday in Brussels, Russia became the newest member of NATO's Partnership for Peace, bringing to 21 the number of countries that have joined in this constructive and creative partnership. Yesterdays even was another significant milestone in the dismantlement of the Iron Curtain that divided Europe for a half a century.

The Partnership for Peace seeks to avoid drawing new lines in Europe; it is, in fact, specifically designed to create an undivided Europe; it also leaves open the possibility of NATO's eventual expansion. In coming in under the tent, Russia has signaled its willingness to work as an equal not only with its former enemies in NATO, but with the countries that were former victims of Soviet repression.

Russia, and each of the countries that have joined the partnership, have unique and important contributions to make. But perhaps more important than the joint exercises and consultations that membership in the partnership offers is the change in attitude that it represents. As an aside, I would note when I met with Russian Prime Minister Chernomyrdin yesterday, this new spirit of cooperation was extremely evident.

Secretary of State Christopher and Russian Foreign Minister Kozyrev, who signed the framework document, both took note of the historical nature of yesterday's signing. Secretary Christopher made an excellent statement in Brussels, and I would ask unanimous consent that at the end of my remarks, his speech be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. In that statement, Secretary Christopher notes that:

Russia's accession to the Partnership for Peace is a reflection of the Policy of extending to the East the institutions that have allowed the West to achieve unparalleled security and prosperity. Two weeks ago in Paris, Russia signed a cooperation agreement with the OECD. In two days in Corfu, President Yeltsin will sign an agreement with the EU that will open European markets to many Russian products. And next month in Naples, the G–7 will welcome President Yeltsin for broad political consultations.

As one who 3 years ago joined in a successful congressional effort to encourage the Bush administration to urge that former Soviet President Gorbachev be invited to meet with G–7 leaders during the London summit, I am particularly pleased that our relationship with Russia has evolved to the point where President Yeltsin will sit at the table with his colleagues during the summit's political meetings. The G–7 summit will demonstrate that Russia is assuming its rightful place among the world's most important economic and political process.

Mr. President, in closing, I would like to commend the administration for designing and putting forth the Partnership for Peace proposal. The Russians, as well as our other friends in Eastern and Central Europe deserve praise for seizing the opportunity to join in this cooperative effort.

EXHIBIT 1

REMARKS BEFORE THE NORTH ATLANTIC COUNCIL BY SECRETARY OF STATE WARREN CHRISTOPHER, JUNE 22, 1994

Mr. Deputy Secretary General, it is a great pleasure to join our NATO colleagues and Foreign Minister Kozyrev to mark this historic occasion, and to welcome Russia as the newest member of the Partnership for Peace.

Our meeting today is a powerful expression of Europe's remarkable transformation. Who could have imagined even a few short years ago that after forty years of bitter confrontation across the Iron Curtain, a newly democratic Russia and this alliance would join in a partnership of cooperation. Within our grasp lies the historic opportunity to build an undivided peaceful and democratic Europe. That is the dream that has animated this alliance and my country for more than four decades. That is the vision that President Clinton set forth when he proposed the Partnership for Peace. And that is the goal that the United States remains fully committed to achieving.

Today, as Russia joins the partnership, we take a major step toward building the bonds of cooperation that can secure the peace of a broader Europe. As an alliance, we are reaching out to Russia's Government and its military to establish a new, more constructive relationship. But no less important—as the alliance has done with other European neighbors—we are extending a hand of friendship to the Russian people.

Russia is and will remain a country of immense importance to the rest of Europe and the world. Its efforts to build democratic institutions and a market economy have profound implications for European security. A broad and constructive NATO-Russia relationship will serve the interests of this alliance. It will serve Russia's interests. And it will serve the interests of all the nations of Europe—particularly those that so recently won their freedom from Communist rule.

The Partnership for Peace is central to NATO's relationship with Russia. We also look forward to constructive dialogue and cooperation to supplement the partnership in areas where Russia has unique and important contributions to make. At the same time, President Clinton will continue to work closely with President Yeltsin to build a strong and cooperative U.S.-Russian bilateral relationship in the interests of both our peoples and the world.

Other European states may also have interests or capabilities that would warrant "sixteen plus one" consultations outside the partnership. We should welcome these possibilities. As NATO promotes security and stability in Central and Eastern Europe, that too will benefit all European nations—including Russia.

Russia's accession to the Partnership for Peace is a reflection of the policy of extending to the East the institutions that have allowed the West to achieve unparalleled security and prosperity. Two weeks ago in Paris, Russia signed a cooperation agreement with the OECD. In two days in Corfu, President Yeltsin will sign an agreement with the EU that will open European markets to many Russian products. And next month in Naples, the G–7 will welcome President Yeltsin for broad political consultations.

By widening the reach of the great postwar security and economic institutions, we can help ensure that war, poverty and oppression never again engulf this continent. We are committed to working for an integrated Europe where sovereign and independent states need not fear their neighbors.

Today we are taking another decisive step toward banishing Europe's historic divisions. We are building a security partnership that has the potential to encompass all the nations of the continent. With Russia's action, 21 countries have now joined the Partnership for Peace. Several have already entered close consultations with NATO to develop individual partnership programs, tailored to their unique capabilities and interests. By this fall, joint exercises will commence, with Poland hosting the first exercise on the soil of a partner country. In this way, the partnership will build the habits of cooperation that are the lifeblood of the alliance. It can thus pave the way for NATO's eventual expansion.

We cannot build the Europe we seek without a strong NATO alliance. We cannot build it without a democratic Russia. We cannot build it without the nations of Central and Eastern Europe. The "best possible future for Europe," which President Clinton invoked at the January summit, depends on all our nations working together in pursuit of common security interests and democratic ideals. That is the purpose of the partnership, and it is the spirit in which we welcome Russia as a partner today.

INDIAN GAMING AMENDMENTS MOVE TO RESOLVE PROBLEMS

Mr. PELL. Mr. President, I would like to join in commending my colleague, the senior Senator from Hawaii [Mr. INOUYE] for his work as chairman of the Senate Indian Affairs Committee. That work is partially reflected in the legislation he introduced today to amend the Indian Gaming Regulatory Act of 1988.

Senator INOUYE and his fellow committee members have worked hard to set a course through difficult issues raised by competing interests and the arguments of different advocates. It is clear that amendments are needed because many inequities and ambiguities have arisen since enactment 6 years ago.

Although I am impressed with his work and many of the amendments, I must also add I am disappointed that the legislation does not include any language addressing either the difficulties of settlement States, nor the specific dispute facing the State of Rhode Island.

I worked long and hard with the members of the Narragansett Indian Tribe to help hammer out the details of S. 3153, the Rhode Island Indian claims settlement in 1978. This agreement was not easy to reach, since it involved the Narragansett Indian Tribe, the town of Charlestown, the State of Rhode Island, and the U.S. Government.

In exchange for extinguishing its aboriginal land claims, the Narragansett Indian Tribe received 1,800 acres of land—half from the State of Rhode Island and half from the U.S. Government. The land was held in trust for the tribe, a trust later transferred to the U.S. Government.

As part of its purely voluntary agreement, the tribe specifically agreed that the settlement lands "shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island." This was stated clearly in both the Settlement Act and in the 1978 report of the Select Committee on Indian Affairs that accompanied it.

I am proud of the agreement. It helped settle disputes and it advanced the cause of the Narragansetts, giving them a pristine land-base to which they had historic links. It also served as a tremendous help to me in paving the way for subsequent Federal recognition of the tribe.

Tribal representatives characterized the agreement, during Senate hearings in June 1978, as "the result of a course of fair and honorable dealings between Indians and non-Indians, which is rare in the history of this country."

When the Indian Gaming Regulatory Act came before us in the Senate, it was made clear to us by Senator INOUYE "that the protections of the Rhode Islands Indian Claims Settlement Act (Public Law 95-395) will remain in effect and that the Narragansett Indian Tribe clearly will remain subject to the civil, criminal, and regulatory laws of the State of Rhode Island."

In addition, in report language, the committee made its intention clear that nothing in the Indian Gaming Regulatory Act "will supersede any specific restriction or specific grant of Federal authority or jurisdiction to a State, which may be encompassed in another Federal statute, including the Rhode Island Indian Claims Settlement Act."

Mr. President, we thought that what we wrote—and said—spelled out congressional intent in clear, declarative language. We received formal assurances and the committee spelled out its intent in its report. Unfortunately, the courts are making a hash of our understanding.

One judge, however, noted that if Congress believed that an injustice had been done "it could provide a remedy through supplemental legislation." That is exactly what we hope will happen during further consideration of the amendments proposed today. An unjustice has been done and years of good faith have been negated.

I have already suggested two legislative remedies, either of which would do the job simply and quickly by codifying our expressed intent.

The first remedy would be a general cure: "Nothing in this act shall be construed to affect the applicability of any settlement act."

The second would be a specific cure, merely restate: "The Narragansett Indian Tribe will remain subject to the civil, criminal and regulatory laws of the State of Rhode Island."

Either remedy would cure the plague of misunderstanding, litigation and bad faith that has grown in Rhode Island as a direct result of the well-intentioned—but subsequently misinterpreted—Indian Gaming Regulatory Act. I am extremely disappointed that neither remedy was included in the legislation introduced today and would hope that one of them might be acceptable to Senator INOUYE and be included in the final bill.

I am convinced that these remedies are the only ones adequate for Rhode Island. I will continue to work with Senator INOUYE and I will press for a legislative remedy both in committee and in the Senate. Although I am disappointed, I will continue to pursue all options.

BRINGING US BACK FROM THE BRINK: PRESIDENT CARTER'S BREAKTHROUGH IN NORTH KOREA

Mr. PELL. Mr. President, President Clinton's announcement yesterday confirming the breakthrough agreement with North Korea achieved by former President Jimmy Carter should be applauded by all Americans.

At tremendous risk to his prestige, President Carter undertook on his own to go to North Korea to confront a country that for almost five decades has been one of America's greatest enemies. Rather than shouting and brandishing a stick, he offered the opportunity for dialog. He listened to North Korean views, and he presented the views of President Clinton and of the United States Government.

His personal diplomacy created an extraordinary opportunity to resolve the issue now dividing the Korean Peninsula. The North Koreans agreed to freeze their current nuclear program. They agreed to resume discussions with South Korea. And they agreed to joint teams with the United States to search for the remains of Americans still missing from the Korean war.

There has been much criticism of President Carter for his mission. Naysayers and nitpickers have been a dime a dozen. Many also criticized President Clinton for allowing this amazing journey to take place. President Carter and President Clinton took an enormous risk in attempting this delicate diplomatic maneuver. But that risk has paid enormous dividends in bringing America—and the world—back from the brink of nuclear war.

I was struck, too, by President Carter's observation that the most important lesson to be drawn from his efforts was to stress the importance, the necessity, of engaging in direct dialog between the two leading antagonists.

President Clinton last night warned of the pervasive cynicism that is permeating America today. Cynicism, masked as cold pragmatism, is eroding the idealism that once made it possible to recognize the accomplishments of one American as the accomplishments of all Americans. We should not forget that we all strive, even if by different paths, for the goal of peaceful conflict resolution.

What was started by President Carter is not the end of the crisis, but a new opening for peace and security on the Korean Peninsula. It took 2 years of difficult, often intense, negotiations to complete the Korean armistice signed on July 27, 1953. The negotiations now may be equally difficult and extended. President Clinton deserves the support of the American people and the Congress if those negotiations are to be successful.

The time has come for the critics and cynics to hold their tongues, and to give the peacemakers a chance to go forward.

A TRIBUTE TO PHILLIP STOLLMAN

Mr. LEVIN. Mr. President, Bar-Ilan University in Ramat Gan, Israel, will begin its 40th academic year in October of this year. At the same time, Phillip Stollman, one of the founders of the university, will be entering his 90th year. This will be a time of great celebration, as the Detroit Friends of Bar-Ilan University gather to honor this exceptional man.

Phil Stollman was approached in 1950 to discuss the establishment of a university in Israel that would combine religious studies with secular education, where science and religion would be taught together. By 1952, enough funds had been raised privately to begin construction, and in 1954 the university opened with 70 students. This was a remarkable achievement involving the participation of the entire Stollman family. Phil dreamed of a student enrollment that would eventually reach 1,000; today 17,000 students participate in all levels of study and research at Bar-Ilan.

It is not difficult to praise this man—but it is difficult to get him to accept this praise. He is a modest person who has quietly, but effectively, worked in countless charitable and communal organizations in Detroit, throughout the United States, and indeed, around the world.

Phil's closest friends and partners in all endeavors were his late brother and his sister-in-law, Max and Frieda Stollman. All three received honorary doctorates from Bar-Ilan, and Phil was the longtime chairman of Bar-Ilan's Global Board of Trustees and is now its honorary chairman for life. In Detroit, the names Stollman and Bar-Ilan University are synonymous.

Mr. President, I wish to congratulate Phil Stollman and simply note that the greatest tribute to the fulfillment of his dreams is the continuation of involvement with Bar-Ilan University by a second generation of Stollmans.

TRIBUTE TO ITALIAN AID SOCIETY ON ITS 100TH ANNIVERSARY

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Italian Aid Society, of my home town of Rutland, which celebrates its 100th anniversary this Saturday. It is a great day for Rutland and the State of Vermont, as we pay tribute to the wondrous Italian heritage that has long been such an enriching presence in our community.

The society was founded in 1894 to lend support to Italian immigrants in Rutland and help them become part of the Vermont's larger community. They were drawn to Vermont to labor against the solid marbles and granite lodged beneath Vermont's scenic mountain landscapes. The society coordinated social services for many of the newcomers long before the enactment of such programs as social security, workmans' compensation, and civil rights protection.

Perhaps labor against is inaccurate—for to view the master artistry crafted by these mortal hands is to know the presence of a labor of love; an intimate respect by man of nature. Today, the works of art, along with the thousands of tons of marble and granite assembled into some of our most revered monuments, stand as a testimony to our immigrant forefathers.

There are numerous structures here in Washington that have benefited from the crafts of the members of the Italian Aid Society. The list includes the tomb of the Unknown Soldier, the Lincoln Memorial, the U.S. Supreme Court, the Jefferson Memorial, and the Andrew Mellon Library. In Vermont, certain cemeteries are sought out by tourists interested in viewing headstones uniquely crafted by the individual whose name it bears. Our towns are sprinkled with stout homes, libraries, and public buildings built of stone drawn from quarries carved by the Italian workers.

These items and more are the work of Italian craftsmen, Vermont residents; American citizens. As we can see, the entire Nation has benefited from the influences of the Vermont Italian Aid Society.

Today the society, 150 members strong, has weekly dinners and is a gathering point for families and friends to continue that legacy. Society members are our doctors, contractors, civil servants, shop keepers, neighbors, and friends. As a force of labor, the interests are now much more diverse. But as a thread in the fabric of our society, the Italian heritage in many ways binds our community. You cannot live in or visit Rutland without being touched by the heirs of those who founded the Italian Aid society. A familiar local greeting is simply "Been busy?," implying that any response in the negative runs contrary to the deeply ingrained work ethic of the community.

My congratulations on a wonderful century to the Italian Aid Society. May its members enjoy a happy and most meaningful birthday.

Buona fortuna to the Italian Aid Society.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Wednesday, June 22, the federal debt stood at $4,597,074,632,951.03. This means that on a per capita basis, every man, woman, and child in America owes $17,632.84 as his or her share of that debt.

THE INDIAN GAMING REGULATORY ACT AMENDMENTS OF 1994

Mr. CHAFEE. Mr. President, earlier today, the distinguished chairman and ranking member of the Senate Indian Affairs Committee, Senators INOUYE and MCCAIN, introduced comprehensive legislation to amend the Indian Gaming Regulatory Act of 1988 [IGRA].

I want to join my colleague from Rhode Island, Senator PELL, in congratulating them for attempting to tackle this extremely complicated and thorny issue. As they said in their introductory statements this morning, literally hundreds of hours of difficult negotiations have gone into the crafting of this legislation.

I am compelled, however, to let the Senate know how very disappointed I am that the bill, as introduced, does not contain language to remedy the terrible—and unanticipated—controversy that the IGRA has created in Rhode Island.

A little background for the benefit of my colleagues: Rhode Island has one federally recognized Indian tribe, the Narragansetts. In the late 1970's the Narragansetts asserted claims to several thousand acres of land in Charlestown, RI. When the State resisted, the tribe sued in Federal court. Fortunately, the tribe, State, and town of Charlestown were able to reach a settlement: roughly 1,800 acres of land in Charlestown were transferred to the tribe. At the same time, the tribe agreed that those lands would remain under the civil and criminal jurisdiction of the State. Subsequently, Congress enacted the 1978 Rhode Island Indian Claims Settlement Act, which codified the settlement in Federal law.

Under Rhode Island law, if an entity wants to conduct casino gambling, it first has to receive approval through both a local and statewide voter referendum. As my colleagues know, this is quite different from what the IGRA says. Therefore, when the Senate was debating the IGRA 6 years ago, Senator PELL and I wanted to make sure that the 1978 act would continue to be the controlling statute with respect to the rules that the Narragansetts would have to follow if they wanted to enter the casino business.

During debate on the IGRA, Senator PELL and I discussed this matter with Chairman INOUYE on the Senate floor. He provided assurances that, even after the enactment of the IGRA, "the protections of the Rhode Island Indian Claims Settlement Act (Public Law 95–395) will remain in effect and that the Narragansett Indian Tribe clearly will remain subject to the civil, criminal, and regulatory laws of the State of Rhode Island." In addition, language was included in the committee's report on the measure to make it clear that the IGRA was not intended to supersede the 1978 settlement Act.

Nevertheless, 2 years ago, the Narragansetts announced their plans to build and operate a full-scale gambling casino on their land, under the auspices of the IGRA. The State then petitioned a Federal court to declare that the IGRA was not meant to apply to the Narragansetts. To our dismay, however, both a district court judge and, most recently, the First Circuit Court of Appeals have ruled that since the statute itself is clear on its face, their interpretation of the law cannot be swayed by legislative history. Thus, they have ordered the State of Rhode Island to begin compact negotiations with the Narragansetts.

The State still has the option of appealing its case to the Supreme Court, but, given the decisions of the two lower courts, I am optimistic about the prospects for resolving this matter through the judicial process.

The only way to redress this problem, in my view, is to amend the IGRA to make it absolutely clear that that law does not supersede the 1978 Rhode Island Settlement Act. And it seems to me that if ever there were an appropriate vehicle for such an amendment, it is the bill that was introduced earlier today. So, as I said at the outset, I am disappointed that for the time being, the chairman and ranking member have opted not to deal with this matter in their legislation.

I recognize, however, that the introduction of this bill is only the beginning of a long process. In the coming

weeks, I will continue to press the Indian Affairs Committee on this issue. I also look forward to working with Senators from the three other Settlement Act States, as I understand that a lack of consensus among our States on this matter was a deciding factor in the decision to leave the Settlement Act question unaddressed. In sum, this issue is of profound importance to Rhode Islanders, and I intend to do all I can to ensure that their voices are heard.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to continue for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2231 and S. 2232 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Will the Chair be good enough to advise the Senator from Nebraska as to the present status of the measure before the Senate?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2182, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER], is recognized.

Mr. SPECTER. Mr. President, last evening the chairman, Senator NUNN, and I had discussed this morning's proceedings and we had agreed that my amendment would be the first one, which we had hoped would be reached at 9:30.

AMENDMENT NO. 1839

(Purpose: To amend the Defense Base Closure and Realignment Act of 1990 to provide for judicial review of compliance with disclosure of information requirements established in the act)

Mr. SPECTER. Mr. President, I therefore send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1839.

The amendment is as follows:

At the appropriate place in title XXVIII of the bill, insert the following:

SEC. 28. JUDICIAL REVIEW OF REQUIREMENTS FOR DISCLOSURE OF INFORMATION BY THE SECRETARY.

Section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(f) JUDICIAL REVIEW.—If the Secretary transmits recommendations to the Commission under subsection (c)(1), any person adversely affected thereby or any member of Congress may, upon a prima facie showing of not less than two documentary material acts of fraudulent concealment, bring an action in a district court of the United States for the review of the compliance of the applicable official or entity with the requirement that such official or entity make available to Congress, to the Commission, and to the Comptroller General all information used by or available to the Secretary to prepare the recommendations.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I thank my colleague from Pennsylvania for offering the amendment as was agreed at or near the close of business as of yesterday. The Armed Services Committee has somewhat of a problem today with personnel because long ago, before we knew we would be taking up the defense authorization bill at this time, we had scheduled a very large, very important meeting with many witnesses for 9 o'clock this morning with regard to the difficult situation in Bosnia. Therefore we will be splitting our duties back and forth, members of the Armed Services Committee. We are prepared at this time to go ahead with any debate, whatever debate is necessary on the amendment offered by the Senator from Pennsylvania.

With due respect to the Senator, and fully understanding the position he finds himself in, we will be forced to vigorously oppose the amendment being offered by the Senator from Pennsylvania for the reason that we feel it might overturn, upset the Base Closure Commission proceedings and procedures that basically are very, very difficult—but I think most of the Members of the Senate recognize important decisions had to be made.

Therefore, I am wondering, in an effort to move this along, I will have two questions of the Senator.

About how long would he feel he would wish to debate in support of the amendment that he has just offered? And whether or not he is going to ask for a rollcall vote on that amendment?

A third part is, in consideration of the statements I have just made, to expedite matters could it and would it be possible to enter into a time agreement at this time on the Senator's amendment?

At the end of that time the Senator from Pennsylvania could make the determination, as is rightfully his, as to whether he wishes a rollcall vote on the amendment he has offered.

Mr. SPECTER. Mr. President, I will respond to my colleague from Nebraska, but I have a preparatory comment. I am a little surprised to hear about "vigorous objection" from the committee because when I talked to the chairman, Senator NUNN, yesterday, he had not reached a conclusion, and, in fact, on the floor referred me to Senator WARNER because Senator WARNER has been deeply involved in the base closure issues.

I do not believe as of this moment that there has been a consideration—at least not to my knowledge—of the specifics of this amendment, which is very, very closely circumscribed. It requires documentary evidence. It requires confirmation by at least two sources, on an analogy to the high-level proof required for the conviction of treason under the U.S. Constitution.

So it was my thought, perhaps hope, that there might be some chance that this amendment would be accepted by the managers of the bill in light of its very, very narrow construction.

Until there has been an opportunity to analyze it and consider it, I do not know—as I said, it is a surprise to hear about "vigorous opposition."

With respect to the handling of the amendment if it is not going to be accepted, it certainly would require a rollcall vote. As to the amount of time involved, at this juncture, I am not sure because there may be a number of other Senators who wish to support the amendment.

So it is very much an open question as to how long it would take. I ask the distinguished Senator from Nebraska, if he is going to be managing this, to at least take a look at it. I certainly would want to have Senator WARNER's input and Senator NUNN's input because I think we may well find an area of agreement.

To say why, in a nutshell, the Base Closure Act has in its preamble to establish a fair process, and this Base Closure Act was passed by the Congress in 1990 after many efforts in the past, especially the 1988 legislation. The Congress laid down a specific requirement that all the materials in the hands of the Department of Defense be turned over to the General Accounting Office so there can be an independent review of all the facts.

In the case involving the Philadelphia Navy Yard, there was a concealment of two reports by leading admirals who said the Navy yard should be

kept open. Those reports were concealed from the General Accounting Office and they were concealed from the Members of Congress, so that when we made our presentations to the Base Closure Commission at the hearing, there really was not a hearing because we did not have the evidence.

The matter has been through the courts, which I will discuss later, perhaps at some appropriate length, where the Court of Appeals for the Third Circuit handed down two decisions saying that there should be judicial review of this sort of a matter.

When the case got to the Supreme Court of the United States, they said there was no direct statement by Congress on the issue of judicial review, but they declined to undertake that judicial review.

When this matter was considered after the work of the Base Closure Commission was completed at a hearing of a subcommittee, chaired by then Senator Alan Dixon, Senator Dixon heard the concerns which I have now raised about this documentary evidence and said: "Well, that is a matter for the courts," Senator SPECTER. He said, this subcommittee cannot take up the matter. Of course, I am prepared to document the transcripts as to what Senator Dixon said on that.

When Senator Dixon said the subcommittee could not take the matter up, we followed his suggestion and went to the courts. When the courts said Congress did not give us jurisdiction to consider this matter, now we are back in the Congress.

I think that the Congress certainly would not want to approve of acts by the Department of the Navy which are fraudulent. That is a strong word but that is the fact of the matter, because there were two reports by ranking admirals who knew this subject who said the yard should be kept open.

I can appreciate the comments of the distinguished Senator from Nebraska who expressed concern about opening up the process of the Base Closure Commission, but I do not think this will do that. It is very, very narrow and, to the extent this kind of conduct is undertaken by the Department of Navy, it seems to me a rather clear matter that we would not want to countenance or approve such conduct. We would not at the same time want to open up the whole process, but there is a way of keeping the process restricted and still allowing the narrow opening for remedying this kind of very flagrant misconduct by the Department of the Navy.

Mr. EXON. Mr. President, I appreciate the remarks by my colleague from Pennsylvania. I will say to my colleague from Pennsylvania that with all that has been going on, I had not had a chance to discuss this matter to any extent with Senator NUNN. However, I have worked very closely with him and other members of the Armed Services Committee all through the painful base closure process.

I will talk to Senator NUNN about this. From what I am advised, there is very little, if any, chance that the committee, including the chairman, is likely to agree to accept the amendment offered by the Senator from Pennsylvania for these briefly stated reasons:

The base closure process, as all know, has been a painful one, and many communities have been upset, justifiably so, by losing the economic benefit of many important military facilities.

However, in the view of this Senator, the amendment offered by the Senator from Pennsylvania would gut the basic premise of the Base Closure Commission that to date, with all of its warts, has served the intent of the Base Closure Commission that originally was proposed by former Secretary of Defense Frank Carlucci to a group of us on the Armed Services Committee several years ago.

Secretary Carlucci's thought was—and I think it was a good one—that there is no way we can make closure and reduction of unnecessary expenditures in a military budget unless we had a base closure commission that would hold hearings on and make determinations of the priorities for closing the bases after consultation, of course, with the Department of Defense.

It seems to me that I believe we can sum up the position of the amendment offered by the Senator from Pennsylvania, that it would gut the key features of the Base Closure Commission legislation which says that the Base Closure Commission will hold hearings and make a study and make a report to the President as to when bases should be closed and during what periods.

The President then has the option of reviewing this, and the President must choose the recommendations of the commission, all or nothing, without changes.

Likewise then, after the President has made that determination, the matter is forwarded to the Congress and the Congress finds themselves, under the law in effect, of doing the same thing that the President has done. They cannot amend, they cannot say this base will remain open and these others will be closed. It is all or nothing, as far as the Congress is also concerned.

Basically, as I understand the amendment, stripping away all of the rhetoric, if it is fair to say, I say to the Senator from Pennsylvania, that his amendment, if it would become law, would, in essence, allow the courts on a petition from any community, any individual, any Senator, to cherry pick, if you will, from the list of recommendations by the commission approved by the President and supposedly approved by the Congress.

Is it not true then that the Specter amendment is another way, with the aggressive effort that the Senator from Pennsylvania has been pursuing it—and I do not fault him for that—through the Supreme Court and other means that to date have failed, basically is it not true, I ask the Senator from Pennsylvania, if his amendment would become law, in essence, would it not allow Pennsylvania or any other entity to bring a petition of some type before an appropriate court and allow the court to cherry pick and make the decisions notwithstanding all of the recommendations of the Commission, the action by the President, and the actions of the Congress?

Mr. SPECTER. Mr. President, I shall be glad to respond to the question of the Senator from Nebraska, but first let me take slight issue with his use of the term "aggressive."

I do not think my conduct has been aggressive at all. I think it has been very modulated in the face of dishonesty by the Department of the Navy when they represent that they have turned over all the information and in fact they have committed fraud, have concealed information; in the face of that charge, they duck and evade.

It is a very modest response to say to the Secretary of Defense and the Secretary of the Navy, how can you undertake that sort of dishonest conduct? And when there is not an appropriate response, to take it to the Armed Services Committee, chaired by then Senator Dixon, and raise the issue. It is on the record. He said, "We can't handle this; it has to go to court." Then it is very modulated to go to court and say, in America, we do not tolerate dishonesty by anyone, especially the Government. So I would say that what I have done so far certainly is not aggressive at all.

Mr. EXON. If the Senator will yield for a minute, I did not intend to make the Senator from Pennsylvania an aggressor. I complimented the Senator from Pennsylvania on his actions thus far. If I were similarly situated to him, I might be doing exactly the same thing.

So if the Senator took from my comments any criticism of the actions that he has taken as being overly aggressive, I think I did not say that. And if I did, I apologize and take back the words. It may be that the Senator did not hear exactly what I said. I was simply saying that I recognize the position that the Senator is in. But I do not believe there is any real chance that the committee at least, or the committee leadership of the Armed Services Committee would agree to this amendment.

Then I went on to ask the question as to what was the basic thrust of the Senator's amendment. I hope he can answer that question. But I would simply say that I have not indicated, nor do I feel, any inappropriate action

whatsoever by the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague for those remarks. I thought I heard the word "aggressive." Perhaps I was wrong. But I think if the Department of the Air Force sought to close Offutt Air Force Base and concealed from Senator EXON documents from Air Force generals who said the Air Force base should be kept open—I have known Senator EXON now 14 years—if they concealed documentary evidence Offutt Air Force Base should be kept open, I would expect at least some response from my distinguished colleague.

But to answer his question: Would this amendment allow the Federal courts to "cherry pick," the answer is no. And the reason that it would not allow the courts to cherry pick is that it sets a very high standard to permit judicial review. It requires documentary evidence which has been concealed, and it requires at least two instances of documentary evidence, of material fraudulent concealment.

There have been some 310 base closures and realignments so far, and I know of only three cases which have gone to court. I do not believe that either of the other two cases has the kind of documentary evidence which is involved with the Philadelphia Navy Yard. But I would say this to my colleague from Nebraska and to all those listening, my colleagues who I hope will follow this debate, because it is a very important question, that this is a level of conduct which we simply cannot countenance.

I have been very distressed as I have seen what has happened with the Navy, and I am just going to talk about the Navy—there is a lot more in the rest of the Government—what happened with the battleship *Iowa*, on turret 2—47 sailors killed, and false reports as to the cause of that blast—I am very much concerned, as well, about the cheating incident at the Naval Academy and the coverup, very much concerned about the recent disclosures about favoritism for the son of the Secretary of the Navy. We had a contested case about Admiral Kelso and his four stars. The admiral prevailed on a relatively close vote, more than 40 Senators, I think 43, voted no in a context where a military judge had filed a 49-page, single-spaced report with evidence implicating Admiral Kelso in what went on in Tailhook, and the inspector general said that there was no credible evidence when the record was full of credible evidence.

We have in the U.S. Congress, constitutionally, very, very serious oversight responsibilities. I think my colleague from Nebraska will agree that it is not possible for us to do the kind of oversight we would like to do because we have so many responsibilities. But there are some items which the Congress simply cannot take up, as Senator Dixon could not take up the question about this concealment when I brought it to his attention sitting in a subcommittee of the Armed Services Committee. He said to me take it to the courts, which is what I did.

So I would say, I would have a question for my colleague from Nebraska. Actually, I have two questions. Let me pose them one at a time. The first question is—and I do not expect the Senator to have evidence as to how many cases there would be of fraudulent concealment of two documents by ranking admirals who are experts in the field, but does the Senator have any reason to think that with that level of proof required, which copies the constitutional provision of at least two witnesses in cases of treason, that there would be any avalanche to the courts to enable the courts to cherry pick what the Commission has done?

Mr. EXON. Mr. President, I will be glad to answer the question posed by the Senator from Pennsylvania.

First, let me go back and correct any improper allegations that were not made by the Senator.

I am advised by my staff that I did use the word "aggressive." I used the word "aggressive" in the context of complimenting the Senator from Pennsylvania with regard to his aggressive activities in protecting what he feels is a very important naval facility in his State. I did not intend that in any context that it was wrong. I think the Senator from Pennsylvania would be the first to concede that I have certainly never known him, not in 14 years but for 16 years now, to be violent. The Senator from Pennsylvania is a very skilled, very experienced attorney going way back to the Kennedy assassination era, and I recognize and admire him for his talents.

With regard to the question the Senator has simply posed, the answer is no. Neither the Armed Services Committee nor any member of that committee are a part of—in fact, just the opposite is true. We have been investigating and have brought forth certain actions by the U.S. Navy top officials, and we have taken what we thought was appropriate action to correct them.

I hope that with the Senator's amendment, we are not going to place the U.S. Navy, though, on trial here on the floor of the U.S. Senate with regard to the amendment offered by the Senator from Pennsylvania.

I would simply point out that it was the Armed Services Committee, under its oversight responsibility, which has checked thoroughly, has held extensive hearings and, in the opinion of this Senator, has taken appropriate action on a whole series of matters involving the U.S. Navy.

It may not be well known to the Senator from Pennsylvania, but when some of the Navy brass mishandled the first big event, it was this Senator from Nebraska who pointed out that he simply did not believe the Navy's findings that the tragedy on the U.S.S. *Iowa* could be blamed on homosexual activity, or the allegations that were made that that whole tragedy was not the fault of the Navy, that it was not an accident; that it was somehow an attempt by two enlisted Navy people that were alleged to have had some homosexual conduct. That really was never proven. Certainly, it was later disproven; that is, the findings of high officials in the U.S. Navy with regard to the pending responsibility in the tragedy on the U.S.S. *Iowa* was, that they were somehow free from any fault or responsibility of the top brass of the Navy.

I would agree with the Senator from Pennsylvania that in recent days, with a whole series of unfortunate incidents, some of the leadership of the U.S. Navy has, at best, not performed up to the standards that many of us would like to see.

But to carry that so far as to say that the closure of any one base in the State of Pennsylvania or elsewhere was done, conceived, as a part of some kind of a Naval coverup or withholding of information I think is stretching the point on any problems that we might have had with the leadership of the U.S. Navy.

I appreciate the Senator's explanation of what his amendment does. And we can put in whatever window dressing or clothing we want. Basically, in the opinion of this Senator, the amendment offered by the Senator from Pennsylvania would gut the basic essence of the Base Closure Commission.

I am not necessarily for nor am I against the facility in Pennsylvania that the Senator from Pennsylvania feels is critical to our national defense.

I have not made a thorough investigation of that particular matter. But I do say, and I do believe, that matter is behind us. It has been so designated. The courts have refused to overturn it. It might well be that some people would agree with the Senator from Pennsylvania that this was a case that was so egregious that we must take action on the floor of the U.S. Senate, since the Senator from Pennsylvania and others were unsuccessful in trying to overturn this through the courts.

I would simply point to the recent decision by the Supreme Court in this matter that was adverse to the interests of those who would like to keep the Philadelphia Naval Facility open.

I guess then, probably, we have outlined the differences of opinion on the amendment. I would simply say to the Senator from Pennsylvania that I have nothing particularly further to say on this matter. If he does, of course, we would be glad to listen.

There are hopefully other amendments. I say to the Senator from Pennsylvania that it is the hope and the desire of the leadership of the Senate and the Armed Services Committee that we stay here tonight as late as necessary to complete this, if we can. If not, we are encouraging the majority leader to hold the Senate in session as long as is necessary tomorrow, Friday, to accomplish this because of other important matters; basically, appropriations bills that are stacked up behind the defense authorization bill.

So I would simply say, is it possible that the Senator might agree to proceed at this time with any further remarks or discussions that he has on his amendment, which I would say is entirely in order from a procedural position. I think that is why Senator NUNN did agree, in the interest of the Senator from Pennsylvania last night, that this would be the first matter taken up. I suggest, though, that as the Senator has said, there may be other Senators who wish to come and speak in behalf of and in support of the amendment of the Senator from Pennsylvania. Likewise, I am confident that there are many who will oppose this amendment who would like to come forth and do so.

The situation we are facing right now, though, is that maybe we could go ahead with other matters if the Senator from Pennsylvania will agree, at an appropriate time, to temporarily set aside his amendment so that we might hopefully proceed with other business, to move along. I see a period of a major logjam that is going to take hours and hours and make it most difficult for us to complete action on the defense authorization bill in a timely manner.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Nebraska for his comments.

The first of two questions which I had directed to the Senator from Nebraska related to his argument earlier about cherry picking. I had asked him a question as to what evidence —if not evidence, indicators—he had or the committee had that there would be any rush on the courts with a standard for judicial review, which was as high as is provided for by this amendment.

There have been, to repeat, some 310 proceedings under base closures and realignments. As I understand it, only three cases were brought to court, and the other two do not match the standard here. I asked him that question. I did not hear anything about it in his reply. But let me pick up on a couple other matters which he commented about.

When he says that the Senator from Pennsylvania has been unsuccessful in keeping the Philadelphia Navy Yard open, the Senator from Pennsylvania has not even had a chance to address the merits of that question, because the Federal courts have said they would not hear the case. The Federal courts have said that they would not hear the case because the Congress did not provide for judicial review. When the matter was before the Armed Services Subcommittee, the presiding Senator, Senator Dixon of Illinois, said this is a matter for the courts; it is not a matter for the Senate. Which is why we went to the courts.

So when the Senator from Nebraska says there has been an unsuccessful effort to have the Philadelphia Navy Yard kept open, this statement is not really on target. We have not even been able to present the arguments about it.

I do not propose to discuss today the reasons why I think the Philadelphia Navy Yard should be kept open, because the question that I put to this body was much more narrow and a more limited question; and that is: Should there be judicial review so the courts can decide whether or not there has been fundamental fairness? Then it is a matter for the Base Closure Commission, under the law, to make a decision as to whether the Navy Yard should be kept open.

The Philadelphia Navy Yard never had a ghost of a chance to present the merits, when the Navy concealed two documents signed by high-ranking admirals that the yard should be kept open. That is what never happened.

I, again, address the first two questions to the Senator from Nebraska, if he cares to answer them: How many cases does he think there are where the Navy has kept two documents by ranking officers and concealed it from the parties in interest? How many cases are there that lead him to make the assertion that there will be cherry picking or an open floodgate of litigation in the Federal courts? I direct those questions to him.

Mr. EXON. Mr. President, I will try and answer the questions that I think are legitimate ones from the Senator from Pennsylvania, a very skilled lawyer who basically is trying to place the courts in a position, in one way or another, of overriding the actions of the Base Closure Commission, the President of the United States, and the Congress.

There is one thing that I think we generally agree to here in the Congress of the United States, both in the House and the Senate—that there has been far too much intervention in the courts. There are supposedly three equal branches of Government: executive, legislative and the judiciary. I happen to feel, as a nonlawyer, that there has been a whole series of instances where I think the judicial branch has overstepped its authority. Yet, of a latter date, there has been some indication that the courts are not overreaching as much as they once did.

I simply say that I do not know how many cases there are, obviously. And I think the Senator from Pennsylvania knows very well that I would not be in a position to know in how many such instances there has been of a coverup of information. I simply say that if we start down that road, then we are going to be back on that highway, the superhighway of the populace feeling that there is somehow a conspiracy about almost everything that happens today in the United States of America, including most of the actions that are taking place in the Congress of the United States. I reject that.

So I think that the Senator from Pennsylvania is doing a very professional, lawyerlike job of creating the conspiracy theory as to why he thinks the courts should be allowed to intervene not only in the case of the naval yard in Philadelphia, but also any other Base Closure Commission. I simply say that if the Senator's amendment is passed, I think we would open up a Pandora's box to every community that has a base closed. They could come forth citing the amendment offered by the Senator from Pennsylvania and passed by the Senate and the Congress as a means to delay, if not to eliminate the base closure, which is absolutely essential if we are ever going to make the tricky dollars that we have on defense do what defense is supposed to do, which is to provide for the legitimate national security interests of the United States.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. GLENN] is recognized.

Mr. GLENN. Mr. President, I would like to make a couple of comments on this. I appreciate the views of the Senator from Pennsylvania. Obviously, no one wants fraud to be involved in a process like this. And there has to be a remedy for that. The Senator from Pennsylvania has taken the course that there should be a judicial review. I think it would be the demise of our whole base closure process if that were to go through. What community would not find something they claim fraudulent and put it into a court case, with the stipulation that the closing of the base be delayed until the final resolution in the courts?

The whole process would obviously come to a screeching halt. As Justice Souter noted in his concurring opinion in Dalton versus Specter:

> This mandate for prompt acceptance or rejection of the entire package of base closings can only represent a considered allocation of authority between the Executive and Legislative Branches to reach important, but politically difficult, objectives * * *. If judicial review could eliminate one base from a package the political resolution embodied in that package would be destroyed * * *. The very reasons that led Congress by this enactment to bind its hands from untying a package,

once assembled, go far to persuade me that Congress did not mean the courts to have any such power through judicial review.

That is Justice Souter's view on this. That does not take away, however, my agreement with the Senator from Pennsylvania that there should be means to address fraudulent behavior, and that is what his legislation talks about in the fifth and sixth lines, the third line up from the bottom of the page of his amendment—the copy of it I have, at least.

It says:

* * * a prima facie showing of not less than two documentary material acts of fraudulent concealment * * *.

I agree that where there is fraudulent concealment, there has to be a remedy for that. But I also submit that we should not take the whole process and untie it by putting us into a judicial review process, because I believe we already have a way of looking at this and taking care of fraudulent concealment. Fraud is not conducted by some great body called "the Pentagon," or whatever. Fraudulent concealment is by individuals. Someone has to decide that he or she is going to fraudulently conceal something. Fraud is illegal right now under the Uniform Code of Military Justice—if it is a military member that we are talking about. Or under the criminal code, if a member of the civil service fraudulently conceals, then that person can be charged with such concealment.

The IG's, that I have a lot of faith in, are doing a good job, and it seems to me that a course in some situations, such as the one in which the Senator from Pennsylvania found himself, is to ask the IG's to look into it immediately. And, second, in whatever area of the country was involved, if there was fraudulent concealment, which is what his amendment deals with, fraudulent concealment, then a case would lie certainly against the member of the military through the Uniform Code of Military Justice, or against a civil service member through the criminal code, or against anyone else representing or acting on behalf of the Government, such as the BRAC closure commission; it would lie against them as representatives of the Government if they fraudulently concealed. So I think we do have that remedy, without knocking out the whole BRAC process.

The reason the BRAC process was set up to begin with was because Congress had, for many years, been unable to deal with the base closure process, and this was put together as a package—a "take it or leave it" type package. I do not think anybody—and certainly I would not advocate that if there is evidence of fraudulent concealment, that it should not be dealt with. I do not see why it has to go through a Federal court process when you can file a suit against a member of the military through the UCMJ, or you could file a suit against a civil servant, or somebody representing the Government, through the regular criminal code that does already cover fraudulent concealment in any situation like this.

I agree with my colleague, Senator EXON, who felt that this would undo the whole BRAC process, which we had so much difficulty putting together. And it was only put together after many years of ineffectually trying to close bases around the country. It is a process that proved contentious, obviously because no one wants to have bases closed in their area. I do not like what happened in some places in Ohio. The Senator from Pennsylvania does not like what happened in Philadelphia. The Senators from California, as we are well aware from their testimony on the floor, feel they have taken too many hits out there. No one likes to see these things happen in their home area.

Where there is fraud—fraud entered into part of this—it seems to me that that there is a remedy already there to address this through the UCMJ and the criminal code, and perhaps using the inspector general to investigate this.

There is one other factor here. If we put this back into the court for judicial review, you, in effect, are taking the judicial branch of Government and saying they will make the final determinations on what the military alignment of bases, the strategic locations of bases, should be around this country. And they would be deciding that by just the narrow consideration of whether fraud occurred. Major bases might or might not be kept open or closed on a basis quite apart from what the military needs of the United States are. I would not want to see that be tossed over into the judicial branch. They may have an interest in it, but they certainly are not qualified, I believe, to make those judgments.

So I believe that the legal remedy that the Senator from Pennsylvania seeks is there in the processes we have now with UCMJ and with the criminal code, the U.S. Criminal Code.

Those were not explored in this particular case. The Senator from Pennsylvania had every right to take his cause to the Supreme Court. They turned it down on the basis that Congress had put together this package and they did not want to get into destroying that package, and I agree with their decision on that.

Did the Senator from Pennsylvania consider going to the IG's? Did he consider going through the UCMJ, the Uniform Code of Military Justice to address a problem of fraudulent concealment, the words out of his amendment? Or did he go to the United States Code where fraudulent concealment, which happens by individuals—not just by some great case against the Pentagon, but individuals—had to be involved? And individuals could have a suit filed against them either under UCMJ or under the regular United States Code.

It would seem to me that that provides a remedy that is adequate without undoing the whole BRAC process, which is what this basically would do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I think the Senator from Ohio has made a very important statement. It is really a concession when he says where there is a fraudulent concealment, there must be a remedy.

That is my point. Where there is fraudulent concealment, there must be a remedy.

When the Senator from Ohio suggests a remedy in a suit against someone in the military or a civilian, that does not remedy the problem of the closure of the Philadelphia Navy Yard.

I am not unaware of how to proceed on a criminal complaint for fraud. I know how to do that. But if I put someone in jail for fraud, which I have done, it is not a remedy for the Philadelphia Navy Yard. It is not a remedy for the importance of the yard to national defense or a remedy for the thousands of people who are thrown out of work.

Now, when the Senator from Ohio asks me have I asked the inspector general to look into it, I have asked everybody in the chain of command up to the Secretary of Defense, and that is Secretary of Defense Perry and that is Secretary of Defense Cheney, and the Secretaries of the Navy. The inspector general specifically has not been asked, but I have the question pending before the Secretary of Defense. But the inspector general lives in America. He knows of the controversy concerning the closure of the Philadelphia Navy Yard. There is hardly anybody who does not. And I asked the Secretary of Defense most recently in a letter which I sent to him on May 24, 1994, which I ask unanimous consent be printed in the RECORD so I do not have to read the whole letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 24, 1994.

Hon. WILLIAM J. PERRY,
Secretary of Defense,
Washington, DC.

DEAR SECRETARY PERRY: I ask that you personally review at least limited aspects of the conduct of the Department of the Navy on the recommendation to close the Philadelphia Naval Shipyard.

When I met with you in advance of your confirmation as Secretary of Defense, you advised me that you would not tolerate any misrepresentations or concealments by anyone in the Department of Defense. I did not pursue the issue on the Philadelphia Naval Shipyard since the matter was in litigation and it was, at that time, a matter for the lawyers.

When the Supreme Court of the United States ruled that the federal courts had no

jurisdiction to review what the Department of the Navy did on the Philadelphia Naval Shipyard, the Court did not reach the merits of the case. I ask that you reach the merits of the case in accordance with the principles which you stated to me since those misrepresentations and concealments still stand.

I enclose with this letter, two reports, one from Admiral Claman and one from Admiral Hekman, which were withheld from the GAO and Congress in violation of the Base Closing Act.

This is only the tip of the iceberg.

I submit that this documentary, undisputable evidence is sufficient on its face to have the Base Closing Commission reconsider its decision to close the Philadelphia Naval Shipyard.

I ask that you agree to have the Base Closing Commission reconsider its decision on the Philadelphia Naval Shipyard in the 1995 round so that there may be compliance with the Base Closing Act.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Mr. President, when the Secretary of Defense wanted consideration from this Senator, he got it within 24 hours. He came to my office when his nomination was pending, and I saw him very promptly. I did not talk to him about the details of the navy yard case because it was pending in court. He said to me that there would not be fraud on his watch. I did not ask him to take action because it was in court.

When the court said the courts do not have the authority to review it, it is a matter for congressional authorization to review it, that was that.

Then I wrote to him on May 24 and I said to him:

When I met with you in advance of your confirmation as Secretary of Defense, you advised me you would not tolerate any misrepresentations or concealments by anyone in the Department of Defense. I did not pursue the issue at the Philadelphia Naval Shipyard since the matter was in litigation. It was at that time a matter for the lawyers.

When the Supreme Court of the United States ruled that the Federal courts had no jurisdiction to review what the Navy did on the shipyard, the courts did not reach the merits of the case, I asked that you reach the merits of the case in accordance with the principles which you stated to me, since those misrepresentations and concealments still stand. As yet, I have not gotten any answer to that, just as I haven't gotten any answer from the Navy for 3 years on the merits of this case.

When the Senator from Ohio says that this is going to affect the force structure, I say this respectfully because I know the Senator from Ohio is a real expert on military matters; I have deferred to him privately and I have deferred to him publicly and I do that again today.

I do not think the courts ought to review military matters, and in the lawsuit I specifically accepted the force structure promise behind the base closure process, and I wanted to make this as emphatic as I can. I am not asking the courts to decide whether the navy yard should be kept opened or closed. That is a matter for the Base Closure Commission.

What I am asking the courts to decide is whether the Philadelphia Navy Yard received fairness under the act which requires full disclosure. Courts are not equipped to make military decisions. Courts are uniquely equipped to make a decision as to whether the procedures of the act have been complied with. Was there fraudulent concealment by the Navy? That is what the court is designed to do.

If the court says, yes, there was, then our request for relief was for the court to say to the Base Closure Commission, "You have to give these folks fairness and look at these two reports."

I would ask the Senator from Ohio the same question I raised earlier—he is on his feet and wants to ask me a question and I will be glad to respond. I appreciate the comment by the Senator from Nebraska that he did not know how many cases would be involved if this amendment were passed, but I submit that it is pretty important to know that if you are going to say there is going to be cherry picking or a flood of litigation.

I submit to my colleagues that if you have the standard for a treason conviction under the Constitution of two witnesses, and require that it be documented, that is a very high standard, and it would be a very unique case and perhaps sui generis, perhaps only one. But I ask my colleague from Ohio this question: There are letters in the Navy files from Admiral Hexman dated December 19, 1990, which says "It is more appropriate to downsize the Philadelphia Naval Shipyard instead of closing it." You have a letter dated March 15, 1991, again from Admiral Hexman, and there is another letter from Admiral Claman in the files saying the yard should be kept open.

Is it not necessary in our system of justice and plain fairness that a defense base such as a navy yard not be closed if this kind of documentary evidence is not presented to the Commission and presented so that when Senators like Senator GLENN goes in for Ohio, or ARLEN SPECTER goes in for Pennsylvania, we can present this and at least have it considered? If the Commission says close the yards fairly, so be it. But does not basic fairness require that the remedy go to what happens to the shipyard as opposed to the prosecution of some individual?

Mr. GLENN. Mr. President, I am glad to respond to the Senator from Pennsylvania, because I think what he is talking about are specifics of the recommendations of one or more admirals in the Pentagon. That is part of an information gathering process of opinions by a great number of people, among whom those couple of admirals may have had a different opinion than the collective wisdom of the whole base closure process. Perhaps they are not aware of some other alignment that is going to be made, or whatever. No one or two people in the Pentagon have a lock on what the Base Closure Commission is to consider and to decide.

I agree that the letters probably should have been considered. But is it fraudulent that the Base Closure Commission did not agree with those two admirals? I do not believe it is.

What the Senator tries to address with his amendment is fraudulent concealment. That was the purpose of the Supreme Court case.

I am reading from the syllabus of Secretary of the Navy Dalton. It says:

The act was seeking to enjoin the Secretary of Defense from carrying out the President's decision pursuant to the 1990 act to close the Philadelphia Naval Shipyard.

So that was the purpose of it. It was to just stop the closing of the shipyard.

I am certain the Senator from Pennsylvania will say, well, he did that because he thought there had been fraudulent concealment before that. If there is fraudulent concealment, it can be brought as a charge under UCMJ or it could be brought under the United States Code against those representing the Government of the United States, whether a temporary Base Closure Commission or civil servants working for the United States.

I do not see, still, why that is not a remedy.

I asked a little while ago if there had been a request made directly to the IG, and there was not a direct response to that. But I would point out that the IG is an independent assessor of activities over there that we may have a question about. They are not in the direct chain of command over there. The IG Act, which I was responsible for helping put into place—in fact, the expansion of it was my legislation—we had a 10-year experience with it. We very deliberately wrote that act with responsibilities to the Congress, as well as to the agencies that those IG's are part of.

So they are to take an independent role in making these assessments as to whether actions of the Department they represent are fair or not fair, whether they are being carried out correctly or not correctly. And the IG's have exhibited a rather fierce independence through the years in making those judgments because they know their responsibilities come both to the Congress and to the agency that they work for.

So it seems to me that an IG inspection, or whatever information is developed privately by the Senator from Pennsylvania, or whomever in whatever other case, could be properly brought before the UCMJ and/or the criminal code for others if, as he has in his amendment, there is fraudulent concealment.

Now, that does not mean if information comes out, as he has indicated in

the letters that were in the files over there, that they are going to prevail, because BRAC closures are a collective wisdom of that whole board, and I would doubt very much that the letters from a couple of admirals who may have liked the Philadelphia yard and may have had a good case, some good reasoning there, I do not see any reason why we would automatically think the Philadelphia Naval Yard, had those letters been made part of the BRAC closure process—there are many people involved, many opinions in the BRAC closure process—I think to toss this whole thing back into the Federal courts when there are already remedies in the UCMJ or the criminal code, and the investigative capabilities of the IG can be brought to bear. To toss the whole BRAC closure out, which it seems to me is a step in the direction we are going, it seems to me would be unwise for the Senator to take.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, responding directly to what the Senator from Ohio has said, I am not representing that the Philadelphia Navy Yard would automatically have been kept open by the Base Closure Commission if these letters had been considered by the Base Closure Commission. But at least there would have been a chance. It would have been the most powerful evidence available for those of us who appeared on behalf of Philadelphia Navy Yard.

The Senator from Ohio said he is not happy with things that were done in Ohio. I can understand that.

The process was for Senators to appear before the Commission.

I referred to the letters from Admiral Hexman. There is an additional letter from Adm. J.C. Claman recommending that the Philadelphia Navy Yard be drawn down to a small size activity in the mid-1990's, the thrust of it being that the yard be kept open.

So there is no representation by me that automatically, as the Senator from Ohio says, the yard would have been kept open. But at least all of the evidence would have been considered.

I think there was at least a possibility that, with a very close question, as appeared before the Base Closure Commission, a very close question, if we had had these letters available to us to say to the Commission, "Commissioners, the two admirals who know the most about this in the Pentagon say the base ought to be kept open. Aren't we entitled to have that considered by the Base Closure Commission?"

That is what we are asking for. That is what we asked for when we said to the court: Let us submit this evidence to the Base Closure Commission.

We are not asking the court to keep the yard open. We are asking the Federal court to send this matter back to the Base Closure Commission with an opportunity for us to be heard in accordance with the fair process required by the act to consider all of the evidence.

The Senator from Ohio comes back again to the inspector general. I had not wanted to get into the matter in any detail, but I am going to.

I do not think it is necessary, when a Senator deals with the Secretary of Defense, to have to go to the inspector general.

But let me say to you very bluntly, Senator GLENN, I do not have any confidence in the inspector general of the Department of Defense. The reason I do not have any confidence in the inspector general of the Department of Defense was when he wrote a letter saying there was no credible evidence as to Admiral Kelso in the face of a 49-page report from a military judge which detailed evidence as to Admiral Kelso. I just do not have any confidence in him.

I believe that when I deal with the Secretary of Defense and I send the Secretary of Defense a letter and ask him to look into this matter and do not get a reply, and when I have dealt with the Secretary of Defense under the prior administration and have detailed this evidence, and have taken the matter up for hearings, that the Department of Defense has had a full opportunity to face up to this kind of a question.

When the Senator from Nebraska was dealing with the Battleship *Iowa* a few minutes ago, he made a very good point. He said his committee was dissatisfied with what the Navy did, claiming that it was a homosexual which caused the explosion in the deaths of 47 sailors. The Armed Services Committee looked into it and found out what the facts were, and did a good job of oversight. I think that is the kind of oversight that is necessary.

That is why I brought the Armed Services Committee my complaints about this fraudulent concealment. I was told to go to court. I went to court, and one court, the third circuit, said, "You're right, ARLEN SPECTER. You have a right to go to the court." The Supreme Court said no, because the Congress had not authorized judicial review.

Now I am back to the Congress. I am back to the Congress and I am saying, is this fair? Is it an adequate remedy to prosecute individuals or to sue individuals, as Senator GLENN says, under the UCMJ or the United States Code? Absolutely not. What does that do? That is a conviction, and somebody may go to jail. That is not a remedy.

Mr. GLENN. Will the Senator yield on that point for just a minute?

Mr. SPECTER. I will.

Mr. GLENN. Because I was saying, if that occurs, then you have a very good cause to bring that back to the attention of the Congress, and Congress can reverse this. Or you can bring it back to the BRAC Closure Commission, and they could say, "Yes, we were misled on this," and we could undo that.

So there is a remedy in this case if fraud—which is what you are dealing with here, fraudulent behavior—if that is proven. So there is recourse back here. We have the final approval over this.

If I knew fraudulent behavior had gone into a decision on a particular case, I would be the first to vote to overturn that particular decision until it can be further reviewed. So we do have recourse in this. It is not as though it is all final.

And just one other thing. I think we are mixing up apples and oranges here on the IG's, because—the Senator mentioned the *Iowa*? I believe that was the Naval Investigative Service that looked into that, and also a separate board of inquiry that was involved with that. The IG was not directly involved with the *Iowa* investigation at all, I do not believe.

Mr. SPECTER. The reference, if I may say to the Senator from Ohio, to the inspector general was not regarding the *Iowa*. The reference to the inspector general concerned Admiral Kelso. We had the 49-page single-spaced report from the military judge detailing evidence as to Admiral Kelso and you had a short report from the inspector general saying there was no credible evidence. A fantastic, remarkable, astounding, unreal conclusion by the inspector general. So pardon me if I do not take the case there.

But back to the first point the Senator from Ohio made when he asked me to yield—and I was glad to do that. I think it is good to do it because we get to the basic point.

The basic point is this: If Senator GLENN wants proof of fraud, why do I have to go to court and get a criminal conviction in order to prove fraud when he can read three letters—two from Admiral Hexman and one from Admiral Claman—read three letters that were concealed that said the yard ought to be kept open. If you dispute that is fraudulent concealment I will listen to that. If you dispute that I did not have a chance to argue it, that it was not before the Base Closure Commission, I will listen to that. If you say that some inappropriate agency is going to make the decision when I concede it goes to the Commission, the Base Closure Commission, and not the court—the court's narrow function under this amendment is to review the case and make a factual determination of whether there was fraudulent concealment that was material and rises to the level of two documents.

If Senator GLENN is prepared to deal with fraud, deal with this.

Mr. GLENN. Will the Senator yield?

Mr. SPECTER. I do.

Mr. GLENN. I ask, the Philadelphia Navy Yard was designated for closing

in the 1991 Commission, is that correct?

Mr. SPECTER. That is correct.

Mr. GLENN. If this fraudulent material was there, why was this not brought before the 1993 Commission for reconsideration and reversal? I am sure they would be happy to deal with it. Was that attempted?

Mr. SPECTER. We brought this matter to the Base Closure Commission before 1993. This matter was brought to the Base Closing Commission.

Mr. GLENN. Which one, the 1991 Commission or the 1993? Because the 1993 Commission could have reviewed this whole thing—over again.

Mr. SPECTER. So could the 1991 Commission, after it was closed and after we found this evidence.

Senator GLENN—the Commission had this evidence. The Commissioners were named defendants in the case. The 1993 BRAC Commission was the same as the 1991 BRAC Commission and they were all parties defendant to the case and they did not lift a finger. When they were told about this fraud they looked the other way. They defend themselves in court by saying the court does not have jurisdiction. They have never looked at the facts.

Mr. GLENN. The fact that there were different opinions by some of the people in the Navy Department does not mean that there was necessarily fraud by the Commission. Or that fraud was permitted by the Commission.

Mr. SPECTER. I am not saying, I say to Senator GLENN, that there was fraud by the Commission. I am saying that the fraud was committed by the Department of the Navy and the Department of Defense. And the fraud was committed when the statute specifically says, "all materials to be turned over to the General Accounting Office," and "all the materials to be turned over to the Base Closure Commission so that Members of Congress can review it before the hearing"—that material was not turned over.

Is my colleague, Senator GLENN, saying that if three letters say the Navy yard should be kept open, and they are concealed, that that is not fraud?

Mr. GLENN. If it is fraud—I do not know whether it was fraud or not. But I am saying if there is fraud and that is the charge then it should be brought to the attention of the IG first, I think. And then, if it is fraud, then that could be charged and brought under UCMJ, or under the United States Code.

I do not plan to go on with this. I know the Senator from Nebraska wants to make another statement here. But let me just make one thing clear and give you my views on this.

I think there are remedies existing now for dealing with fraudulent behavior, which is what the amendment addresses. And so everyone is very clear about this, it would be my opinion that if this went through and if this was made law, then it would be the end of the BRAC process as we know it, which was set up after so many tortuous years of being unable to deal with this base closure process.

I have no doubt that if this amendment went through and became law this would be the end of the BRAC process. I think it is that serious, what we are considering here this morning. I think there is an adequate way of taking care of fraudulent behavior and I think it is in law right now. I hope everybody listening back in the offices, when it comes to a vote on this—I do not see how you can look at this any way but that it would be the end of the BRAC process. Because it would be a rare city that would not find something they could charge was fraudulent, put this into the Federal courts, and hold up the whole process. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am at a little bit of a loss to hear my colleague from Ohio say he does not know whether it was fraud or not. You have flat statements, three documents that the yard should be kept open. It is certainly material. They are concealed from the General Accounting Office. I am a little at a loss to understand how he says he does not know whether it is fraud or not.

Mr. GLENN. At a loss? It is this.

There are many documents that are brought or not brought to the attention of the Base Closure Commission. And the judgment of the Commission is in the totality of this. Did this fraud, which is claimed by the Senator from Pennsylvania, decide this case? I doubt that it did. Some admirals saying—I am sure almost any base to be closed can find some general, some admiral, who expresses an opinion that he thinks that is wrong and that particular base should be kept open. But that does not mean there is fraud involved because we have some differing opinion, whether it is brought to light to the Base Closure Commission or not.

Mr. SPECTER. I would say to my colleague from Ohio that generals and admirals may say a lot of things. And it is up to the Base Closure Commission to sift through them—a lot of documents, a lot of opinions, and a lot of judgments. But the act of Congress said all the material, all the material should be made available to the General Accounting Office and then to the Congress. And it is inconceivable to me how anybody can look at these three letters without saying that this is material and that this is fraud.

But, let me go one step further and say to the Senator from Ohio, this amendment does not ask the Senate to decide that this is fraudulent concealment. This amendment asks the Senate to allow a court to look at this evidence and say whether it is fraudulent concealment. In the course of our discussions here today we do not do what a court does, in terms of the analysis of fraudulent concealment, although I think on its face these letters demonstrate fraudulent concealment. And when the Senator from Ohio goes on and says this is going to destroy the base closing process, I would ask him—if I may have his attention—I would ask him the question I asked the Senator from Nebraska.

I understand he does not have a lot of details and a lot of facts at his disposal. It is a judgment call. The Senator made the assertion this amendment would destroy the closing process. There are 310 base closures and realignments, as I understand the facts. And only 3 lawsuits have been brought. I do not believe the other two lawsuits involve evidence of fraud at this level.

In seeking to open judicial review, I have done so on as narrow an ambit as I can devise. I have taken the constitutional provisions on treason, the most serious crimes at the time of the adoption of the Constitution. It requires two witnesses. And I have required that it be documentary evidence, not what somebody heard in a corridor or somebody testifies on oral evidence and might get into a "who struck John," who said what. The requirement is documentary evidence and at least two levels of documentary evidence. I would even make it three.

But the question for the Senator from Ohio is how many cases are there like this? Is there going to be a flood of litigation? Is there going to be an opportunity for the Federal courts to cherry pick?

Mr. GLENN. I have no way of knowing how many cases there would be, obviously. Nor do I think the Senator from Nebraska has any idea how many cases there would be. We have no way of knowing.

But I would submit, if you give a judicial review it is going to be a rare community that has concern about a base that does not find some papers somewhere that did not come to light at the proper time. They are going to claim that was critical. And they are going to file suit. And so the execution of the closure will not take place.

So that is the reason why I think the BRAC closure process would come to a screeching halt. We found it difficult to deal with this. It was impossible. This process was put forward. I think if there is fraud, the fraud was committed by an individual or a collection of individuals. If the case is there, file a suit under the United States Code right now, fraud against the Government. Or under UCMJ. It covers fraud also. So there is recourse right now. It is not as though we do not have recourse. It does not have to close up the whole BRAC closure process.

Mr. EXON addressed the Chair.

Mr. SPECTER. Mr. President, I believe I still have the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, when the Senator from Ohio says that communities are going to find evidence, I think that is just not so. You do not pick documentary evidence out of the air. You just do not pick documentary evidence, fraudulent concealment of material information out of the air.

Mr. GLENN. Will the Senator yield? Why did he not just file suit under UCMJ or civil service? Why does he not still do that to this day?

Mr. SPECTER. Because——

Mr. EXON. Mr. President, point of order. I ask the Parliamentarian to make a ruling as to who has the floor. We have not been following proper procedures under the rule.

Therefore, as the individual occupying the majority leader's chair, I do not wish to cut off debate. But I certainly feel that maybe under the rules I seek recognition and the right of the floor at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania still retains the floor but may yield to questions.

Mr. SPECTER. I thank the Chair.

In response to the comment made by the Senator from Ohio, there are two comments pending. One comment is why have I not started suit under the UCMJ. Because it does not get me the remedy that I seek. It does not do me any good to put somebody in jail for fraud and then to wait all that time—and that process could take years—come back and face the same kind of arguments I raise here.

When the Senator from Ohio made a key concession, where there is fraudulent concealment, there must be a remedy, that I agree with. But it is hardly a remedy to sue an individual. A remedy is to deal with the closing of the Philadelphia Navy Yard.

When the Senator from Ohio raises the point, as I was about to finish when he last raised another question, about communities finding something to go to court with, I think he is wrong about that. It is not easy to find documentary evidence which says the yard should be kept open by a ranking admiral. It is not easy to find a second letter from a ranking admiral who says that or a third letter from a ranking admiral who says that. But let me add this, Mr. President: That if this is the way of the Department of Defense and communities can find documentary evidence of fraudulent concealment, then that ought to be acted upon.

If this body is going to say to the Department of Defense, the Philadelphia Navy Yard, in the light of what happens in Government, the kind of concealment that we have talked about here today with the battleship *Iowa*, the Academy cheating scandal, the son of the Secretary of the Navy, or Tailhook, and the hard facts of this case where we have documentary evidence about fraud, if this body is going to say that it intends to, in effect, sanction that by precluding the courts from judicial review, then so be it.

There has never been a consideration of this case on the merits by Secretary Cheney, who was Secretary of Defense, or by Secretary Perry, who is now Secretary of Defense, or by the Armed Services Committee, or when I took it to the subcommittee with Senator Dixon who said go to court, or by the Supreme Court of the United States which said it is up to the Congress to grant jurisdiction—we do not think the Congress has done it—or by the distinguished Third Circuit Court of Appeals which twice said that there ought to be review, not of force structure, not of military matters, but of procedures.

If my colleagues in the U.S. Senate are going to say to me that the courts are not open for this kind of fraud and that we are going to put the imprimatur of the Senate behind it, I will watch a rollcall vote.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Nebraska.

Mr. EXON. Mr. President, it seems to me that we have had a good discussion. It is becoming redundant because the same phrases are being used over and over again in the attempt of each side to proceed with explaining their position. I hope that we are about ready to come to a conclusion on debate on this matter.

I will simply say that I maintain the position that I made when we began this debate; and that is, regardless of the merits or demerits of the amendment offered by the Senator from Pennsylvania, if this was ever to become the law of the land, there is no question but what every community in the United States of America would find some reason to delay or stop the closure of any base. That would be a disaster, I suggest, given the diminishing resources to provide for the real national defense of the United States of America.

To move things along, I know that the distinguished Senator from South Carolina, the ranking member of the Armed Services Committee, and the chairman of the Armed Services Committee both would like to be heard on this matter.

I ask unanimous consent that the Senator from South Carolina be next recognized by the Chair, followed by the Senator from Georgia.

Mr. SPECTER. I object.

Mr. EXON. I yield the floor.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nebraska has yielded the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. If closing bases was easy business, there would be no Base Realignment and Closure Commission. It is an extremely difficult task and there are always people who are unhappy and who lose a great deal because of the closing of military installations.

South Carolina knows that to be true, as well as many other States in the Union.

Charleston was hurt badly by what the Base Commission did. Charleston had been a Navy town for a 100 years and they wiped out everything down there with the Navy, practically. But, on the other hand, how are you going to handle this thing?

But providing for judicial intervention in the procedure is not the answer. It will only create additional problems.

My reasons for opposing this amendment are: First, litigation brings false hopes, expense, and it delays community readjustment.

Next, the Base Realignment and Closure Commission's effectiveness is totally dependent on the all or nothing acceptance of its results. Lawsuits would promote fragmentation of these results. Material provided to the Commission is also provided to GAO and Members of Congress. This provides sufficient review of the military departments' submissions and provides sufficient opportunity to determine the validity of the material.

This amendment would create a significant problem and solve nothing.

I urge my colleagues to oppose this amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I know there has been a good debate. I regret I have not been able to be here for the entire debate. I thank the Senator from Nebraska, the Senator from Ohio, and the Senator from South Carolina for representing the Armed Services Committee's position on this bill. I know the Senator from Pennsylvania feels very strongly on this point, and I understand his point. I have to respectfully disagree.

There is not a weapons system that has ever been canceled that you cannot find some general or admiral who wanted to keep it. There is not any kind of weapon that goes out of business because it is outmoded that you cannot find a general or admiral who wants to keep it. And the same thing for military bases. You are always going to have some general or some admiral or some officer or somebody who has said somewhere that a base should not be closed.

The services have to weigh all of that, if they know about it. Sometimes they do; sometimes they do not. Then they have to make their recommendation to the Secretary of Defense. He has to make his recommendation to the President. The President has to

make his recommendations to the Congress. And then we have to decide on the issue.

I know that where there has been any kind of deliberate withholding of information that is tantamount to fraud, and as the Senator from Ohio has pointed out, those kinds of offenses are punishable under the Uniform Code of Military Justice. If a military officer or other people subject to the Uniform Code of Military Justice have deliberately withheld information, committed fraud or committed any kind of false testimony, then those are punishable offenses.

But what we on the Armed Services Committee do not want to do is to see judicial review take place on the Base Closure Commission because we know that every community will do their very best to find some bit of misleading information, whether intentional or unintentional, and label it fraud and go to court and then the courts are going to be struggling, first, to try to determine whether there is fraud and, second, what to do about it after they determine it.

If you find two pieces of information that have been withheld under the amendment we now have pending, and the court then determines it might have been deliberate, then no matter what the overall weight of evidence is, the court could overturn that. And if it overturned it for one base, then the rationale of the Base Closure Commission can come unwound as to other bases.

So that is the reason we did not have judicial review. If there was a base in Arkansas that there were two bits of information, or two pieces of information that were not considered at the appropriate time and later it was determined by some court of law in a judicial review that that information was pertinent and relevant and should have been considered, then the base that was closed in Arkansas could be reversed and be pending and then a base closure somewhere else might make no sense at all, or base realignment somewhere else might make no sense at all. So in an effort to achieve perfect justice here, we would be basically exposing the whole base closing process to coming unwound.

Having been here long enough to know that there is never anything that is considered a closed question in Washington, including a weapons system that is canceled or a base that is closed, we would be involved in this over and over and over again, and we would be back where we were before we ever decided to go with the Base Closure Commission, which is the only way we are going to be able to close military bases.

No one wants to close military bases. No one enjoys telling a community they are going to lose personnel from the Department of Defense, whether it is a closure or realignment. I know that very well. But I also know what happens if we do not close military bases.

What happens is that we keep infrastructure which is not needed, and we end up having to cut either force structure or readiness or we sacrifice the modernization of the force. So this is not a free ride. We cannot keep bases open that are not needed and not pay a very big price in terms of military preparedness. The way the system works, the price is not paid immediately because you do not save money immediately in base closure. But what we do now will affect the kind of money we spend in infrastructure in 5 years, 6 years, 7 years, 8 years, 9 years, 10 years. So what we are doing right now in terms of closing military bases, as painful as it is, has a very big effect on military preparedness for 5 to 10 years.

For all those reasons, with great respect for the Senator from Pennsylvania—and I do not know anyone who wages a more effective battle than he does in these areas; he is a very forceful advocate, and I will always listen very carefully to his position, but in this case I must respectfully disagree and urge that the amendment be defeated. I hope we could vote on it as soon as the Senator from Pennsylvania feels he has completed his case, and I hope that would be in the next few minutes because we do have two other amendments that are awaiting presentation that are also very important.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania I believe sought recognition.

Mr. SPECTER. While the Senator from Georgia is in the Chamber, if I may have the attention of the Senator from Georgia, there are a couple of issues I would like to discuss very briefly, and I am about ready to vote, as I stated to the Senator from Georgia informally on the floor a few minutes ago.

When the Senator from Georgia raises the contention that you cannot let the courts get involved in a closure because that might upset the whole string of interrelated closures, I think the Senator from Georgia does understand my point, but I would like his comment about it, that I am not asking the court to decide what base to close and what base to leave open. I am asking the court to make a decision as to whether there has been fraud so that the matter ought to go back to the Base Closure Commission, and the Commission would hear the evidence which was concealed, and the Commission would then make a decision. So the Commission keeps in mind all of the factors involved and on the whole sequence of base closures. I ask that question of my colleague.

Mr. NUNN. I do understand the distinction, and I think the Senator's point is one that is pertinent to the consideration. The problem is the time element. The whole Base Closure Commission has been set up on a very compressed time element. We have x number of days to decide in the Congress. The Secretary of Defense has to appoint a Base Closure Commission, I believe, by January 20 or 22. If he does not, and if that is not submitted to Congress by then, there is no Base Closure Commission at all. Therefore, all the statutes that are waived here are applicable. The President has so many days to review the consideration. Then Congress has so many days to review it after that.

So what happens is if you get a court intervening in the middle of all of this, the whole time schedule is compromised and makes it unworkable. I think everyone has to realize that bases can be closed more than one way. Bases can theoretically be closed without a Base Closure Commission, and that way the Congress has to approve it every step of the way. And there are all sorts of statutes that are set up in law that make that extremely difficult. That is the reason we have not had bases closed.

So this Commission concept that is the subject of this amendment is an extraordinary procedure because we had extraordinary difficulty in dealing with base closings under the existing law with all sorts of impediments.

So I would say to the Senator, the Senator's point is basically correct but the time schedule makes that in my view compromising to the effectiveness of the base closing concept.

Mr. EXON addressed the Chair.

Mr. SPECTER. The second point I want to discuss with my colleague from——

The PRESIDING OFFICER. The Senator from Pennsylvania asked permission to ask a question to the Senator from Georgia. The Senator from Georgia has responded to the question.

The Senator from Pennsylvania actually lost the floor when he propounded the question to the Senator from Georgia. The Senator from Georgia has responded to the question.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may propound another question to the Senator from Georgia. It does not take long to——

The PRESIDING OFFICER. Does the Senator intend to propound that question and lose his right to the floor?

Mr. SPECTER. Well, I will ask unanimous consent that I might propound a question to the Senator from Georgia without losing the right. I understand the rule that someone else may intervene——

The PRESIDING OFFICER. The Chair asks, is there objection to the unanimous-consent request?

Mr. EXON. What is the unanimous-consent request?

The PRESIDING OFFICER. The Senator from Pennsylvania has asked a unanimous-consent request that he may be allowed to ask an additional question to the Senator from Georgia.

Mr. SPECTER. Without losing my right to the floor.

The PRESIDING OFFICER. Without losing his right to the floor.

Mr. EXON. If there would be no objection to that, then that would waive the right of this Senator to claim the floor under the rules, which I have been attempting to do on two or three occasions?

The PRESIDING OFFICER. While the question is being asked and until the answer is given to the Senator from Pennsylvania, the Senator from Nebraska is correct.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania had the floor.

Mr. SPECTER. I thank the Chair.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, none of us wishes to be difficult on this matter. We have been on this now for 2 hours. We have other amendments that are equally, if not more, important to dispose of. I have listened very intently for the last hour and 15 minutes, and I have not heard one single iota of new or informative information entered into on debate on either side of this issue.

It seems to me that about 9:30 or 9:40 o'clock tonight there are going to be all kinds of——

Mr. SPECTER. Parliamentary inquiry, Mr. President: Do I not have the floor?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska has been recognized. The Senator from Nebraska has the floor.

Mr. SPECTER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. SPECTER. Did not the Chair just rule that I had the floor before the Senator from Nebraska interceded?

The PRESIDING OFFICER. The Senator from Nebraska has been recognized, and it is the opinion of the Chair that the Senator from Nebraska at this time has the floor. The Senator from Pennsylvania has lost the floor. The Senator from Nebraska has the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, in order to ensure the Senator from Pennsylvania that the Senator from Nebraska or no one else is trying to cut him off, what we are trying to do is to move this bill along.

As I was saying, at 9:30 or 10 or 11 o'clock tonight there are going to be all kinds of Senators coming to whoever occupies this Chair and say, why does it take us so long to dispose of these important matters? Why are we called upon to interrupt what are our normal business hours in debate into the middle of the night? It is for reasons like this.

It seems to me that a good case has been made for his position by the Senator from Pennsylvania. I think those of us who oppose that amendment reasonably and strongly believe we have made our case. I am wondering at this time, to move this along, if I could ask a question of the Senator from Pennsylvania without losing my right to the floor, as to whether or not, in the interest of moving this along and coming to a vote, recognizing the fact that we would have the option, if we could dispose of this at this time to move to table which would cut off all debate.

I would like to inquire of the Senator from Pennsylvania, without losing my right to the floor, as to whether or not he would be interested in coming to some kind of a time agreement at this time of a reasonable timeframe so we could bring debate to a close and move to a vote on the matter, if that is his desire, either by a tabling motion here or an up-or-down vote.

I ask that without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska? The Chair hearing no objection, the Senator from Nebraska will pose the question without losing the right to the floor.

Mr. EXON. Could I have a response of my friend from Pennsylvania?

Mr. SPECTER. I would be glad to respond, Mr. President. And I would be glad to say that the Senator from Nebraska does not have to make a unanimous-consent request on matters like that, that I am not going to raise an objection as to who has the right to the floor, whether the question is asked by someone who does not have the floor, or whether the question is asked by someone who has the floor.

I must say that I disagree with him very categorically when he says that nothing new has been raised, and when he makes any suggestion that this Senator has been dilatory, or that any undue time has been taken up by the Senate.

I was here promptly at 9:30 to undertake this debate. I was the only Senator on the floor. I conferred with the manager of this bill, Senator NUNN, in advance of this bill coming to the floor last week, and yesterday. And told him what I intended to do, so that I could cooperate.

I was on the floor yesterday. The Senator from Georgia is nodding yes. I was on the floor yesterday evening talking to the Senator from Georgia and the majority leader. And I was agreeable to being here at 9 o'clock. If they said 8 o'clock or 7 o'clock, I would have been here. When I am asked to be here, I am here on time. I do not think I am wasting any time. Maybe I am wasting a little right now.

I also think this is a matter of really great importance. We have not been quite 2 hours on this matter, and we have propounded some really important questions. I would hate to show the Senator from Nebraska what the law firm of Dillworth, Paxson, Kalish & Kaufman has done in Philadelphia with more than $1 million in pro bono work, and what this Senator has done by way of preparation of this case in working on it, in the course of less than 2 hours. This is a drop in the bucket.

We happen to be on something which is a lot more important than the Philadelphia Navy Yard. We happen to be on a subject about the conduct of the Department of Defense, and the conduct of the Department of Defense in concealment. The long, laborious process by the Congress in coming to terms on the Base Closure Act, which goes back to the sixties, carefully crafted, required that all the evidence be put forward so that people have a chance to see what the Department of the Navy is doing.

I have no doubt about the outcome of this debate, Mr. President, with the arraying on the other side, and with the concerns about unraveling the process, which I think is unfounded because no one has been able to make any generalization, let alone a firm representation of a flood of litigation or cherry picking here.

For a moment or two, I had decided to speak at length. But I am not going to do that.

I just would like to ask the Senator from Georgia one final question, and then maybe sum up in just a few minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania was recognized to answer a question propounded by the Senator from Nebraska.

The Senator from Nebraska.

Mr. EXON. Mr. President, I am not sure my question was answered. But I think I got the thrust of the answer to the question from the statement that the Senator from Pennsylvania just made.

Let me correct the Senator once again. I think that when he indicated that I said there had been repetitious and dilatory statements, that was not any criticism of Senator from Pennsylvania. That was a criticism of the general debate on both sides of the aisle. Somebody can read the transcript for the last hour and make their

own judgment as to whether or not people have been talking by, through, or at each other without making any essential points.

I take it that there is not going to be any time agreement. I speak for a great number of Senators who feel that we should move to a vote on this as quickly as possible. Therefore, I would ask again of my colleague and friend from Pennsylvania, putting in no caveat this time about losing my right to the floor, by asking him: Does he believe that he could agree to a vote in a reasonably near timeframe up or down on this matter, and about how long would he estimate it would take from his point of view and those representing him to give them a chance to make any remarks, if they so desire; and could we come to some general gentleman's agreement on you how long into the future this debate is likely to tie up the Senate?

Mr. SPECTER. Mr. President, I thank the Senator from Nebraska. I cannot come to a gentleman's agreement. I anticipated a question of Senator NUNN, which will last about 45 seconds. Knowing Senator NUNN as I do, I would anticipate about a 2-minute response. And then I would anticipate closing in maybe 3 or 4 minutes.

Mr. MCCAIN. Mr. President, if the Senator will yield, I would like to speak on this.

Mr. SPECTER. Fine.

Mr. President, I would ask unanimous consent that Senator LAUTENBERG be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Maybe Senator LAUTENBERG will want to comment. But that is about as much time as I will take.

Mr. EXON. Mr. President, I yield the floor.

Mr. SPECTER. I may need time, depending on the gravity of the argument of the Senator from Arizona.

The other question I have from the Senator from Georgia was when he is talking about a weapons system, that he is sure he can find some admiral or—I certainly understand that. But, again, I suggest respectfully to my colleague from Georgia that that is off the mark. What is the mark here is that you have a series of letters.

I ask unanimous consent that the letter from Admiral Claman, dated March 29, 1991, and the two letters from Admiral Hexman, dated December 19, 1990, and March 13, 1991, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, DC, December 19, 1990.

Ref: (a) COMNAVSEA ltr 5000 OPR: 07T3/F0373 Ser: 00/8224 of 20 Nov 90. (b) CINCLANTFLT ltr 4700 Ser N436/007378 of 14 Sep 90.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (OP-04).

Subj: Realignment data for Philadelphia Naval Shipyard.

1. In reference (a), I provided information relative to the proposed realignment of Philadelphia Naval Shipyard, while maintaining the propeller shop and foundry, the Naval Ship Systems Engineering Station (NAVSSES) and the Naval Inactive Ship Maintenance Facility (NISMF). While I realize that the Secretary has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard, I strongly recommend that this decision be reconsidered. It is more prudent to downsize Philadelphia Naval Shipyard to approximately the size of a Ship Repair Facility (SRF) in order to support Navy ships in the New York and Earle homeport areas. In reference (b), CINCLANTFLT outlined the history of Atlantic Fleet depot maintenance problems with marginal ship repair contractors. A Navy industrial capability is required in the Philadelphia area to provide a safety valve when a private sector shipyard is unable to complete awarded ship work.

2. Further, recommend that the drawdown of Philadelphia Naval Shipyard to an SRF-size shipyard not be done until FY 95, as the shipyard is required to support scheduled workload until that time.

P.M. HEXMAN, Jr.

DEPARTMENT OF THE NAVY,
Washington, DC, March 13, 1991.

Ref: (a) CNO ltr Ser 431F/1U596599 of 11 Jan 91. (b) NAVSEA ltr Ser 00/5312 of 19 Dec 90.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (OP-041).

Subj: Realignment of Philadelphia Naval Shipyard.

1. In reference (a), you indicated that my recommendation that Philadelphia Naval Shipyard be downsized rather than closed was not accepted by the Base Closure/Realignment Advisory Committee. The fleet needs the capability of a naval shipyard to provide a credible repair capability able to services the Newport, Philadelphia, New York and Earle area, as well as to provide a source of repair when a private sector shipyard is unable to complete the assigned work in the areas, as stated in reference (b).

2. Under the closure option and in interest of clarification, the 30 people mentioned in reference (a) were an estimate of the number of people required to man the *drydock* in a mothball status. In addition to this, 255 people would be required to man the remaining facilities: 135 to provide residual facilities support and 100 to run the propeller shop and foundry. This compares with approximately 1,200 personnel under the "small repair capability"; option: 135 residual facility support, 100 to run the propeller shop and approximately 945 to perform repair work for the fleet. Any required additional support for this facility would be from another larger naval shipyard such as Norfolk Naval Shipyard.

3. I continue to take the position that retention of a credible repair capability at Philadelphia for naval ships homeported in the Northeast area is the most cost effective solution:

(1) It provides the fleet with low cost, reliable repair capability.

(2) It helps spread the effects of the costs to Navy Programs of the other repair facilities (foundry, utilities, etc.).

Further, the workload distribution for naval shipyards in the 90's supports full operations at Philadelphia through mid FY 95. As previously briefed, executing a realignment of Philadelphia Naval Shipyard in FY 93 will cause significant perturbations to carrier overhauling yard assignments and could result in an East Coast CV overhauling on the West Coast.

P.M. HEXMAN, Jr.

DEPARTMENT OF THE NAVY,
Washington, DC, December 19, 1990.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (CP-04).

Subj: Realignment data for Philadelphia Naval Shipyard.

Ref: (a) COMNAVSEA ltr 5000 OPR: 0733/T0373 Ser: 00/8224 of 20 Nov 10. (b) CINCLANTFLT ltr 4700 Ser N436/007378 of 14 Sep 90.

1. In reference (a), I provided information relative to the proposed realignment of Philadelphia Naval Shipyard, while maintaining the propeller shop and foundry, the Naval Ship Systems Engineering Station (NAVSSES) and the Naval Inactive Ship Maintenance Facility (NISMF). (While I realize that the Secretary has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard, I strongly recommend that this decision be reconsidered. It is more prudent to downsize Philadelphia Naval Shipyard to approximately the size of a Ship Repair Facility (SRF) in order to support Navy ships in the New York and Earle homeport areas. In reference (b), CINCLANTFLT outlined the history of Atlantic Fleet depot maintenance problems with marginal ship repair contractors. A Navy industrial capability is required in the Philadelphia area to provide a safety valve when a private sector shipyard is unable to complete awarded ship work.

2. Further, recommend that the drawdown of Philadelphia Naval Shipyard to an SRF-size shipyard not be done until FY 95, as the shipyard is required to support scheduled workload until that time.

P.M. HEXMAN, Jr.

DEPARTMENT OF THE NAVY,
Washington, DC, March 29, 1981.

Encl: (1) Philadelphia Naval Shipyard—Option 1. (2) Philadelphia Naval Shipyard—Option 2. (3) TAB A Report Documentation—Naval Shipyards.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (OP-43).

Subj: Base closure final documentation.

1. Enclosures (1) and (2) provide the COBRA options for the naval shipyards as requested on 28 March 1991. They are as follows:

a. Philadelphia Naval Shipyard—Option 1. Close and preserve Philadelphia Naval Shipyard in FY 93 after completing the USS CONSTELLATION (CV 64) SLEP and the USS FORRESTAL (CV 59) dry docking availability. Retain the propeller facility, the Navy Inactive Ship Maintenance Facility (NISMF) and the Naval Ship Systems Engineering Station (NAVSSES) in Philadelphia. Move the USS JOHN F. KENNEDY (CV 67) overhaul to Norfolk Naval Shipyard.

b. Philadelphia Naval Shipyard—Option 2. Commence realignment of Philadelphia Naval Shipyard in FY 93 and complete

downsizing to approximately 1200 people in FY 95. Retain the propeller facility, the Navy Inactive Ship Maintenance Facility (NISMF) and the Naval Ship System Engineering Station (NAVSSES) in Philadelphia.

3. Enclosure (3) provides the revised documentation for the above options.

4. We recommend that option 2 be approved for Philadelphia Naval Shipyard, i.e., that Philadelphia Naval Shipyard be drawn down to a small size activity in the mid 90's as workload declines in order to provide a government controlled CV dry dock site and ship repair capability for the northeast.

J.S. CLAMAN,
Rear Admiral, USN.

Mr. SPECTER. The questions I have for the Senator from Georgia are: Are these letters not really different than a statement by some admiral or general that he wants to keep the weapons system? And are they not really of a totally different quality when they are kept from the General Accounting Office and kept from Senators? And is this the kind of a sanction the Senate wants to give to the Navy to hide matters like this in order to get their way on the base closing?

Mr. NUNN. Mr. President, I say to my friend from Pennsylvania that he makes a good point. I believe his point is valid in the sense that, first of all, information should not be withheld. Second, if it is withheld and it is discovered, the people who withheld it should be punished under the appropriate procedures. Third, the information, if it is withheld and discovered, ought to be presented to the Commission itself, and if not the Commission in being, the next Commission. And I understand that in the case of these letters, they were presented to the 1993 Commission, even though the 1991 Commission took action. Fourth, immediately this information should be conveyed to the appropriate committees of the Congress of the United States and to Congress itself, which would be considering that, and to the President of the United States.

I agree with the Senator on everything he said, with one exception: I do not think we need the courts involved in this. I believe there are other vehicles, whether it is the IG or the General Accounting Office, or whether it is the Congress or the President, without getting judicial review which, as I repeat, would actually, I think, compromise the timing and overall cohesion of the process.

Mr. SPECTER. I thank my colleague from Georgia. I have more work to do. I am going to take this back to the Base Closure Commission when they are back in business in 1995. I am going to prove my case in all those other forums. As the Senator from Ohio suggests, I will bring it back to the Congress at a later date.

I note that the Senator from Arizona wants to comment. I will not speak long in wrapping up, but I will yield to the Senator from Arizona.

Mr. MCCAIN. Mr. President, first of all, I congratulate the Senator from Pennsylvania, whose tenacity and dedication to ideals and goals that he believes in is well known in this body. I believe it is the first time in many years that a sitting Senator has gone so far as to argue the case before the U.S. Supreme Court. He has fought this issue very hard on behalf of the people of his State and the people of Philadelphia. I admire that and appreciate it. In the course of his zealous crusade, he has uncovered some clear problems that need to be adjusted in the process.

By the way, I intend to introduce a sense-of-the-Senate resolution that the 1995 BRAC process should go forward. I believe that strongly, unless there is some dramatic turnaround in the defense budget, because the situation as it exists today is that we have cut the defense budget over the last 7 or 8 years by some 40 percent in its force structure; and, at the same time, only 15 percent of the infrastructure has been cut. Frankly, no person can conduct business with a huge overhead that they are not using.

I will hear the arguments when I introduce this bill that the environmental cleanup costs have escalated and it is costing us more than anticipated. I fully agree with every one of those arguments. But we are going to—as it says in one of the advertisements we see on television—"pay now or pay later."

I know it is not the intent of Senator SPECTER's amendment, but I believe if we open this process up to judicial challenge and suits through the courts, in the facts of life of the world we live in today, judges would delay or block closures or realignments, and we would see argument after argument, not unlike that we saw pursued, albeit unsuccessfully, by the Senator from Pennsylvania.

So I want to work with the Senator from Pennsylvania in attempting to make this process more fair, clear. Clearly, the shortcomings will be revealed in up-to-date and accurate information being provided by the Commission. The Commission has made decisions literally with a few minutes of consideration in some cases. I would like to work with him in including the process so he does not have to go through what he went through.

So I reluctantly oppose this amendment. But, at the same time, I applaud the efforts of the Senator from Pennsylvania and give him my commitment that I will do everything I can to make this better. Those of us who are from States, frankly, that have bases in jeopardy are obviously concerned, and that happens to be the case with my State of Arizona.

THE CRISIS IN KOREA

Mr. MCCAIN. Mr. President, if history teaches us anything about modifying the behavior of dictators, it is that the efficacy of incentives depends on the simultaneous employment of disincentives. To get a mule to move, you must show it the carrot and hit it with a stick at the same time.

Throughout the confusion and sudden reverses that have plagued the Clinton administration's attempts to curb North Korea's nuclear ambitions, one quality of administration diplomacy has remained constant. The administration's approach to resolving this crisis has consistently reflected the mirror opposite of North Korea's efforts to realize their aspirations for membership in the nuclear power club. Our diplomacy employs only carrots; theirs, only sticks.

On the many occasions when the administration's carrots have failed to prevent North Korea's violations of the Nuclear Non Proliferation Treaty, the Clinton administration has limited its choice of sticks to the withdrawal of the carrot. For instance, the administration responded to North Korea's discharge of the remaining fuel rods from the Yongbyon reactor by canceling their offer of a third round of high level talks.

Yes, they also began consulting with U.N. Security Council members about the imposition of sanctions against North Korea. But their attempts were half-hearted at best; were limited to the consideration of symbolic sanctions; and were, in effect, dropped once former President Carter succumbed to the charms of that avuncular dictator, Kim Il-song.

Using sticks such as their threatened withdrawal from the NPT and the International Atomic Energy Agency, North Korea has consistently intimidated administration diplomacy. To divert the administration from taking punitive measures in response to North Korea's violations of the NPT, Kim Il-song has raised, then withdrawn his stick, masking his forbearance in the disguise of a carrot. That tactic was on full display during the Carter visit.

Thanks to former President Carter's performance as an innocent abroad in North Korea, the administration now feels that it has no choice but to pursue the purported openings to resolve the crisis offered by Kim Il-song. The practical effect of President Carter's public embrace of the Great Leader is that the administration effort's to secure even a symbolic sanctions regime would fail at the present time. Thus, President Carter's effect on the international politics of this crisis requires President Clinton and the South Korean Government to spend the time necessary to call the North's bluff.

I can understand why President Clinton might have wanted to make a virtue of necessity, by announcing that North Korea's offer was tempting enough to explore in a third round of high level talks. But I had hoped that a sense of humility and an appreciation

for North Korea's long record of broken promises would have restrained administration exuberance when announcing their decision to resume negotiations. That announcement should have been understated, released on paper, and colored with great skepticism about the North's sincerity.

Instead, President Clinton greeted North Korea's specific promise to freeze their nuclear weapons program and to refrain from expelling the last two IAEA inspectors as if North Korea had, at least, offered the United States a concession worth celebrating. The President publicly identified himself with the Carter initiative and all of the former President's overstated rhetoric about personally saving Korea from war.

Mr. President, what, in fact, has North Korea given up in this offer? Nothing. The fuel rods which North Korea would use to make weapons grade plutonium cannot be used until they cooled down for at least another month. Neither can the reactor be refueled until the rods have cooled. In other words, North Korea's nuclear program is, of physical necessity, frozen.

What North Korea has done is withdraw a threatened stick regarding the expulsion of the inspectors and offered to refrain from utilizing a capacity that it presently does not have. For this, they received a celebration in the White House press office, and President Clinton's enthusiastic embrace of President Carter's diplomacy. While the talks drag on, the North Koreans will be granted sufficient time to reach the point when they can convert the fuel into weapons grade plutonium. During this time they will not be constrained by economic sanctions or the buildup of United States military forces on the Korean peninsula. The most critical reinforcements necessary to diminish North Korea's ability to destroy Seoul with artillery fire will now be held in abeyance while the United States finds itself trapped in negotiations with the North, leaving Seoul a hostage to Pyongyang's future belligerence.

I say we will be trapped because the Carter initiative is now the Clinton initiative. Had it failed before yesterday, the administration could have plausibly blamed the whole mess on President Carter's naivete. Now, the blame will be placed squarely on President Clinton—as it should.

This political reality, I suspect, will cause President Clinton to become a coconspirator with Kim Il-sung in dragging the talks out even if it becomes apparent that North Korea is only stalling until it can develop four to six additional nuclear weapons.

After the President's overreaction to what is at best a dubious offer from North Korea, President Clinton's reputation as a world leader will be permanently injured in public opinion if the talks fail. He now has a rather significant personal political stake in preventing the perception that the talks have failed from taking hold in the public's mind. I greatly fear that the President will allow this political imperative to override national security concerns.

Yet, it is at least an even money bet that the talks will fail, Mr. President. Although the administration will attempt to obscure a failure, we will reach a point when it is apparent to all. That point will be apparent when North Korea suddenly violates the last of its obligations under the NPT by resuming operations in its reprocessing plant and converting the fuel now in cooling ponds into weapons-grade plutonium.

Should they begin reprocessing, our only means to deprive the North Koreans of an additional four to six nuclear weapons would be to immediately destroy the reprocessing plant with air strikes. President Clinton may have only hours to make that decision. Does anyone believe that he will choose air strikes?

He will not choose that necessary option, Mr. President, because he has neglected to reinforce our counter battery defenses to a level sufficient to spare the city of Seoul from complete destruction by North Korean artillery. He has done so irrespective of the concerns of military commanders in Korea. Consequently, the United States will have to learn to live with North Korea's possession of as many as eight nuclear weapons, just as the President is apparently prepared to live with their possession of two nuclear weapons.

Those who doubt the acuity of my speculation should know that we will have an early test of the administration's resolve. The first agenda item in the negotiations to begin the first week of July will be access to two nuclear waste sites where the IAEA might gain at least a partial understanding of how much plutonium was diverted to weapons production in 1989.

You will remember, Mr. President, that it was North Korea's destruction of the means for an accurate measurement of that past diversion that caused the administration to drop its original offer of a third round of talks and to go to the Security Council for a sanctions resolution. Administration officials have assured me that the first order of business in the forthcoming negotiations will be North Korea's commitment to partially remedying their violation of the NPT by allowing challenge inspections of the two waste sites. They assured me that if North Korea does not satisfy their concerns on this issue that the talks will not go forward.

As recently as last Friday, North Korea's Foreign Minister said that his government would never allow IAEA access to the waste sites. If the North Koreans stay true to form, they will reject the administration's first agenda item in Vienna. If the administration allows this priority to be set aside to discuss other items on the agenda, we will then know that President Clinton has abandoned his public commitment to a nonnuclear North Korea. North Korea will know that they have prevailed in the overmatched contest between Kim Il-song's and President Clinton's diplomacy. And the United States vital interests in Asia will have been almost irreparably damaged.

Mr. President, there may yet be a way to prevent this nightmare scenario I have outlined from becoming reality. It will require from the administration a greater degree of resolve than it has heretofore shown during this crisis. It will require the President to employ simultaneously both the carrot and the stick.

The United States should open the discussions with North Korea in Vienna by informing the North Koreans that while we welcome Kim Il-song's commitment to former President Carter, we are not relying on their good faith to make these talks successful by abiding by their obligations under the NPT. Accordingly, we have taken a precautionary and purely defensive action aimed at denying Pyongyang the capital of South Korea as a hostage. We have deployed additional counter battery artillery to our defenses north of Seoul sufficient to greatly diminish North Korea's present ability to reduce that city to ashes should they choose to pursue their nuclear ambitions by further violating the NPT.

This prudent and necessary approach should enlighten the North Koreans about our commitment to achieving a nonnuclear Korean peninsula by whatever means necessary. Should they suddenly commence the reprocessing of the fuel now in cooling ponds, the President's decision to exercise a military option will not be hindered by his concern over North Korea's present artillery advantage.

Should we fail to follow such a sensible course I expect that the North Koreans will delay a resolution of this crisis until it becomes impossible to resolve. They will then have the means to achieve the only strategic objective we have ever been certain that North Korea wants—the reunification of the Korean peninsula under Kim Il-song's authority.

To those who reject this dire prediction, I leave one historical anecdote. In the spring of 1950, Kim Il-song proposed that he and South Korean President Sygman Rhee hold summit talks in August 1950, just as he has now proposed to meet with the current South Korean President, Kim Young Sam in August.

In June 1950, the North invaded South Korea, and the United States was dragged into a long and bloody war for which we were not prepared. Should President Clinton wish to avoid such a fate for our country, he would be wise to exercise a little more caution and a little more resolve in his future dealings with the great leader, Kim Il-song.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. President, I wish to commend my distinguished colleague. That was a brilliant résumé of the situation today, and a clear direction of what procedures should be followed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. WARNER. Mr. President, I wish to inform the Senate that at the appropriate time, subject to the concurrence of the managers as to timing, it would be the intention of the Senator from Virginia to move to table the amendment of the Senator from Pennsylvania.

Mr. NUNN. Mr. President, I do not want to cut anyone off, if the Senator from Pennsylvania would like perhaps a couple minutes to close out his argument. We will have a motion to table. I have another amendment ready to come up at the moment.

Would the Senator from Pennsylvania like to have the final word here, and then we could go to the Warner motion to table?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator from Georgia.

I would like to make a few concluding remarks, and they will not be long, so colleagues will be on notice we will be voting in the course of the next few minutes.

I frankly am a little bit at a loss on the whole procedure under the Base Closure Act, as to what is happening here and in the courts on, in effect, sanctioning concealment and fraud by the Department of the Navy. I am concerned about it because the fraud is blatant, it is obvious, and it is provable by documentation.

For a very brief personal aside, Mr. President, I think I became interested in being in the Congress of the United States when I was a youngster in Wichita, KS, and I heard my father comment about the veterans march on Washington in about 1932 or 1933, when the troops were called out and the veterans were marching for their bonus. In a sense, I think I have been on my way to Washington for a long time out of concern for that kind of injustice.

I think it is a rare opportunity to be a U.S. Senator, to speak out and to act on that kind of injustice.

I strongly, really fervently believe there is that injustice in this matter, and I have pursued it in the Federal courts, with the help of former Pennsylvania supreme court Justice Bruce Kauffman and the Dilworth law firm, which has invested more than $1 million in time pro bono; that is, free from public cost.

The Court of Appeals for the Third Circuit twice said that a very narrow ambit ought to be subject for review. The Supreme Court of the United States said there would not be judicial review because the Congress had not authorized it.

So I bring the matter back to the Congress to ask, on a very, very narrow ambit, for judicial review when there are two documents showing fraudulent concealment.

This is not the first time I have asked the Congress to review the matter. Because I asked the subcommittee of the Armed Services Committee to do so back in 1991 immediately after the base closure order came down, and was told at that time by the chairman of the subcommittee, then Senator Dixon, that it was a matter for the courts. So I pursued it in the courts, and I brought it back here today.

I am a little bit at a loss when I hear assertions about a volume of litigation. I have asked the question and gotten responses from two Senators that they really do not have any—I am not looking for evidence—they do not have any indicators that there would be an avalanche of litigation.

There were some 310 cases brought on base closures and realignment. There are only three lawsuits. And I do not know of any lawsuit that rises to the level of the documentary evidence which I have put in the RECORD here: three letters from admirals, two admirals, Claman and Hexman, saying the base ought to be kept open.

I am not saying that those letters would have carried the day, Mr. President, before the Base Closure Commission, but I am saying that they certainly should have been reviewed.

The Philadelphia Navy Yard was established in 1801. It is the anchor of the city. It is going to be closed here in a process which smacks of fraud, deceit, deception, and corruption. If this body puts its imprimatur of approval on that today, so be it.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I might ask the distinguished chairman, before making the motion with respect to the pending amendment, is the chairman in a position to advise the Senate on the likely order of amendments that would follow?

It is my hope that the amendment from the Senator from Wisconsin relating to CVN–76 could be brought up following whatever amendment is to be taken up now.

Mr. NUNN. I thank the Senator from Virginia.

My response is that there is no order by the Senate, but what the managers of the bill prefer is that we now have Senator JOHNSTON, Senator FEINSTEIN, and Senator LOTT on the floor, all concerning another amendment regarding sealift and amphibious ships.

After that debate is concluded and we vote on that, I hope we could get the carrier amendment up immediately thereafter. It would be a matter of whoever has that amendment coming to the floor. I have talked to Senator FEINGOLD, and I believe he would be prepared to do that.

It is my hope—and I will wait until we get on this other amendment, and I ask the Senator from Mississippi, perhaps, to give this some thought—it is my hope that after the debate starts on the second amendment after this rollcall vote, to think in terms of a time limit on this amendment. But I will leave that for a later moment.

Mr. WARNER. Mr. President, I thank the distinguished chairman.

Mr. WARNER. Mr. President, after consultation with the Senator from Pennsylvania, I move to table the amendment.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia [Mr. WARNER] to table the amendment of the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 27, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—71

Akaka	Coverdell	Gramm
Baucus	Craig	Gregg
Bingaman	Danforth	Harkin
Bond	Daschle	Hatfield
Boren	DeConcini	Heflin
Breaux	Dorgan	Helms
Bryan	Durenberger	Hollings
Bumpers	Exon	Hutchison
Byrd	Feingold	Inouye
Campbell	Ford	Johnston
Chafee	Glenn	Kassebaum
Coats	Gorton	Kempthorne
Conrad	Graham	Kennedy

Kerrey	Mikulski	Rockefeller
Kerry	Mitchell	Roth
Kohl	Moseley-Braun	Sarbanes
Leahy	Murkowski	Sasser
Levin	Murray	Shelby
Lieberman	Nickles	Simon
Lugar	Nunn	Smith
Mack	Pell	Thurmond
Mathews	Pryor	Warner
McCain	Reid	Wellstone
Metzenbaum	Robb	

NAYS—27

Bennett	Dole	McConnell
Biden	Domenici	Moynihan
Boxer	Faircloth	Packwood
Bradley	Feinstein	Pressler
Brown	Grassley	Riegle
Burns	Hatch	Simpson
Cochran	Jeffords	Specter
Cohen	Lautenberg	Stevens
D'Amato	Lott	Wofford

NOT VOTING—2

Dodd	Wallop

So the motion to lay on the table the amendment (No. 1839) was agreed to.

Mr. GLENN. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Madam President, was leaders' time reserved?

The PRESIDING OFFICER. The Senator is correct.

RELIGIOUS BIGOTRY: GOP LETTER TO THE PRESIDENT

Mr. DOLE. Madam President, with the increasing unpopularity of the Clinton health care plan, confusion over American leadership on the world stage, and a long string of Democrat electoral losses, it's becoming increasingly clear that some members of the Democrat Party are resorting to campaign tactics based on religious bigotry to divert attention from these failings. That's regrettable. The essence of democracy is participation, and using terms such as "fire-breathing christian radical right" to label Americans who happen to go to church and go to the polls—to question their participation on religious grounds—only cheapens our democracy. These are the kinds of comments that bring to mind the unpleasant attacks faced by Al Smith in 1928 and John F. Kennedy in 1960.

As I said yesterday, the American people are much smarter than the Democrats who resort to these tactics realize. They care about where a candidate stands on the issues. They aren't concerned with whether or not a candidate is Catholic, Jewish, Episcopalian, Methodist, or Evangelical.

In my view, the American people will reject these appeals to religious bigotry, and I hope the President of the United States will do so, as well. President Clinton has spoken eloquently about the need for tolerance in our Nation, and the importance of religion in the lives of Americans. Accordingly, all 44 Senate Republicans sent a letter to the President today asking him to join us in repudiating the remarks of those in his party who have resorted to this strategy of religious bigotry.

Madam President, I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. DOLE. Madam President, Republicans look forward to a healthy debate this campaign season on the challenges facing our Nation. The American people will cast their votes this November based on the issues and the quality of the candidates, not on manufactured political hysteria.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 22, 1994.

Hon. WILLIAM CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: As the November elections draw closer, Americans will be looking to Republican and Democrat candidates to discuss their positions on the challenges facing our country. And we believe that a frank debate of our differences on issues like health care, taxes, crime, and foreign policy is the essence of a healthy democracy, and will be good for America.

What is not good for America, however, is questioning a candidate's fitness for office because of his or her religious beliefs. And that is precisely what several prominent members of your party have done in recent days, making comments that bring to mind the type of attacks faced by Al Smith in 1928 and John Kennedy in 1960.

Mr. President, you have spoken eloquently in the past about the need for tolerance in our lives, and about the importance of religion in the lives of Americans. We write to ask that you now join with us in repudiating the remarks of those who use terms like "fire-breathing Christian radical right," and who cheapen our democracy through religious bigotry.

Sincerely,

BOB DOLE.
PAUL D. COVERDELL.
KAY BAILEY HUTCHISON.
CONRAD BURNS.
LARRY E. CRAIG.
THAD COCHRAN.
SLADE GORTON.
MALCOLM WALLOP.
DON NICKLES.
PHIL GRAMM.
DANIEL COATS.
DIRK KEMPTHORNE.
R.F. BENNETT.
JIM JEFFORDS.
BILL ROTH.
JACK DANFORTH.
ARLEN SPECTER.
TED STEVENS.
LARRY PRESSLER.
FRANK H. MURKOWSKI.
NANCY LANDON KASSEBAUM.
CONNIE MACK.
KIT BOND.
MITCH MCCONNELL.
RICHARD G. LUGAR.
ALFONSE D'AMATO.
HANK BROWN.
BOB SMITH.
AL SIMPSON.
PETE V. DOMENICI.
JUDD GREGG.
ORRIN HATCH.
TRENT LOTT.
JESSE HELMS.
JOHN H. CHAFEE.
BILL COHEN.
LAUCH FAIRCLOTH.
DAVE DURENBERGER.
CHUCK GRASSLEY.
STROM THURMOND.
MARK HATFIELD.
JOHN MCCAIN.
JOHN WARNER.
BOB PACKWOOD.

CRIME CONFERENCE

Mr. DOLE. Madam President, after months of delay, the Senate and House have finally begun their conference deliberations on a crime bill.

The conference could not be more timely, for sadly, in the America of 1994, no community, no neighborhood, no city, no one person is completely safe. The scourge of crime is everywhere. Everyone is at risk.

So, Madam President, as the conference begins its work, the American people have a right to ask some important questions:

Will the conference report adopt a hard-headed approach to violent crime and violent criminals, or will it simply take a page out of the old and discredited root causes playbook, pumping billions and billions of additional Federal dollars into social welfare programs of dubious value?

Will the conference contain the so-called Racial Justice Act provisions, allowing criminal defendants to overturn their capital sentences using statistics alone? Or will it heed the warnings of the National Association of Attorneys' General, the National District Attorneys' Association, and other law enforcement groups who argue that these provisions would have the practical effect of abolishing the death penalty nationwide—at both the Federal and State levels?

Will the conference report devote enough resources to incarceration so that we can finally slam shut the revolving prison door? And will it emphasize truth-in-sentencing, so that a 15-year prison sentence means just that—15 years, and not 5 years or 10 years? Nothing does more to shatter public confidence in our system of criminal justice than the sight of a convicted violent criminal, released from prison into our communities, the beneficiary of a liberal parole policy.

Will the conference endorse tough mandatory minimum sentences for those who use a gun in the commission of a crime? And will it adopt a comprehensive three-strikes-and-you're-out provision that is not strapped with

so many conditions and caveats, that it becomes virtually meaningless?

Madam President, when it comes to fighting crime, the American people do not want gimmicks. They want—and they deserve—tough, hard-headed solutions.

That is why this Senator is prepared to vote against any conference report that does not meet the tough-on-crime test: Substantial funding for prisons, a strong emphasis on truth-in-sentencing, no Racial Justice Act, including any compromise version, and a commitment to mandatory minimum sentences for violent criminals.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I understand the Senator from Wisconsin has a unanimous consent request. I would like to yield to him for that purpose, and retain the floor.

PRIVILEGE OF THE FLOOR

Mr. KOHL. Madam President, I ask unanimous consent that Bill Brennan, a fellow in my office, be granted the privilege of the floor during consideration of the defense authorization bill.

Mr. JOHNSTON. I understand the junior Senator from Wisconsin also has a unanimous-consent request.

Mr. FEINGOLD. Madam President, I ask unanimous consent that Bob Gerber, a congressional fellow in my office, be granted the privilege of the floor during the consideration of the National Defense Authorization Act for fiscal year 1995, and all votes thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1840

(Purpose: To restore the level of funding for the National Defense Sealift Fund that was requested in the budget for fiscal year 1995 submitted by the President by reducing fiscal year 1995 funding for LHD–7)

Mr. JOHNSTON. Madam President, on behalf of myself, the Senator from California, Mrs. FEINSTEIN, and Senators BREAUX, BOXER, and KOHL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mrs. FEINSTEIN, Mr. BREAUX, Mrs. BOXER and Mr. KOHL, proposes an amendment numbered 1840.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, line 7, strike out "1949" and insert in lieu thereof the following: 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) AMOUNT FOR SHIPBUILDING AND CONVERSION.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) NATIONAL DEFENSE SEALIFT FUND.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

Mr. LOTT. Madam President, I observe the absence of a quorum.

Mr. JOHNSTON. Madam President, I believe I had the floor.

Mr. LOTT. Madam President, I do not believe the Senator keeps the floor after he submits an amendment. I ask for this time so I have an opportunity to at least take a look at the amendment. I have not had a chance to see it at all. I would like to at least have a chance to look at it before we proceed, so I would like to observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Madam President, has the amendment been reported?

The PRESIDING OFFICER. Yes.

Mr. JOHNSTON. Madam President, this amendment undoes an amendment adopted in error in the Armed Services Committee which transferred $600 million from the so-called fast sealift account to build an LHD–7, which is an amphibious attack ship.

Madam President, the action of the Armed Services Committee was opposed by the Navy, by the Secretary of the Navy, is opposed strongly by the Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili, whose letter I have that says that the fast sealift program is the centerpiece of Army doctrine now. It is opposed by the administration, and it is opposed by the chairman of the Armed Services Committee.

With that kind of lineup, Madam President, my colleagues may ask: How in the world did the Senate Armed Services Committee ever adopt the amendment? Well, the answer is very simple. They were given erroneous information about the U.S. Navy. I have a memorandum here by Mr. R.J. Natter of the Office of Legislative Affairs of the Department of the Navy, dated 13 June 1994, in which he described how the erroneous information came about. He says in the first sentence:

The attached memorandum describes the sequence of events which resulted in your staff being provided incorrect information regarding the option expiration date for new construction ships 2 and 3, awarded to NASSCO.

It goes on then describing how the Senate Armed Services Committee was given erroneous information.

In effect, Madam President, what the Senate Armed Services Committee was told was that you could fund both the sealift program and the LHD–7 amphibious attack ships within this budget without hurting the fast sealift program.

I ask unanimous consent that the letter from R.J. Natter be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 13, 1994.

Memorandum for: Mr. Steve Saulnier and Mr. Creighton Greene.

Subject: Sealift new construction contract options.

1. The attached Memorandum describes the sequence of events which resulted in your staff being provided incorrect information regarding the option expiration date for new construction ships 2 and 3 awarded to NASSCO. Contrary to the initial information provided to OLA by NAVSEA on 9 June, the option expires on 31 December 1994 vice 31 December 1995. The correct option expiration date (31 Dec 94) was provided to my office on 10 June and passed immediately to you on that same date.

R.J. NATTER.

Mr. JOHNSTON. The letter points out that the information was in error.

Why is it, Madam President, that General Shalikashvili states: "However, this diversion would place at risk the centerpiece program of the MRS"—that being the Mobility Requirement Study—"despite the critical shortfall cited by many commanders in chief in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense."

I ask unanimous consent that General Shalikashvili's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE JOINT CHIEFS OF STAFF,
Washington, DC, June 22, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to express my concern about the current version of S. 2182 that would significantly damage our long-standing, integrated lift requirements as expressed in the 1992 Mobility Requirements Study (MRS) and supported in our budget request.

My primary concern is that the proposed legislation diverts *all* FY 1995 funding from construction of two Large Medium Speed RO/RO ships (LMSR) to an initial down payment for another multi-purpose amphibious assault ship (LHD) and also funds two Maritime Pre-positioning Ships (MPS) that the Department of Defense did not request. I understand this committee revision was based

upon erroneous information, later corrected, which was provided to you by the department. However, this diversion would place at risk the centerpiece program of MRS despite the critical shortfall cited by many CINCs in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense.

Another concern I have is that the bill diverts $43 million in funding from the purchase of Ready Reserve Force (RRF) RO/RO ships which are key to the surge of early arriving forces. The SASC instead funds a subsidy program to incorporate defense features on future US-built commercial ships. This would sacrifice near-term readiness that supports early combat force deliveries in favor of an unproven concept designed to deliver follow-on materiel. At a minimum, I request the Senate provide the Department the legislative authority to acquire these ships.

If enacted, these measures will unravel our carefully constructed sealift acquisition program. This measured and studied program has enjoyed wide support among military professionals, defense executives and the Congress as both absolutely essential and fiscally responsible. The MRS, a rigorous study which included over 90 warfighting analysis cases, also received the endorsement of each member of the JCS.

Please reverse these actions to support our sealift requirements—the military strategy critically requires it. I strongly support the execution of the MRS program.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

Mr. JOHNSTON. The last sentence states:

Please reverse these actions to support our sealift requirements—the military strategy critically requires it.

Madam President, what is the fast sealift program? With the end of the cold war, we could no longer place troops in great numbers all around the world.

At one time we had 300,000 troops in Germany. We had troops all over the world. And fast sealift has always been important but not such critical importance as it has been since the demise of the cold war when we had to bring troops back to the continental United States, but with a critical fast sealift ability to be able to deploy them quickly to trouble spots around the world.

For example, the present difficulty with North Korea. We have reduced our number of troops in South Korea. I believe that we now have only 37,000 troops in South Korea, a tripwire amount. If hostilities should break out in South Korea, we would have to very quickly deploy troops and materiel to South Korea to defend them. We would have to deploy them very quickly.

My colleagues who are old enough will remember in 1950 when the North attacked the South how the North Koreans were able to chew up a huge amount of the South Korean Peninsula because it took our troops so long to get there.

Recognizing this difficulty, in 1991, the Chairman of the Joint Chiefs commissioned a study called the MRS, the mobility requirement study, to determine how much sealift we would need, of what kind and nature, to get what kind of requirements to what trouble spots in the world, at what costs, and on what time line.

They came up with a study that concluded that what we needed were some 36 ships which we called roll-on/roll-off ships. Some are fast sealift, some are medium-speed ships, having this ability to roll on and roll off ships. The 36 ships will allow some 2 million square feet of prepositioned materiel equipment within 15 days.

In other words, a balloon goes up in North Korea. Once we build this fast sealift, you could get 2 million square feet of materiel within 15 days to South Korea. It would also enable us to get two heavy divisions on site within 30 days. So, these were thought to be absolutely essential requirements to the new post-cold-war strategy. If you are going to bring the troops back to the United States, you must be able to get them to the trouble spots quickly.

As General Shalikashvili says, this fast sealift is a centerpiece of our strategy. Either you have to have the troops out there on site, which means you have to have many more troops at much greater costs, or you have to have the fast sealift capability.

In Operation Desert Storm we learned a great many things. We learned about the importance of smart weapons, about the importance of technology, and about the importance of having overwhelming force. We also learned about our difficulties in our sealift. It so happens that that was no problem in Operation Desert Storm because we had some 6 months within which to get our materiel and our manpower over into the desert location.

Madam President, President Clinton said last week that is probably the last conflict that we will have the luxury of that much time to get our troops over.

The next time the balloon goes up it will probably be on a much faster timeline, as in North Korea. If North Korea attacks, and we hope and pray as to that particular conflict the immediate danger has been taken out—we have had discussions here about that particular problem today. Some of our colleagues think that that issue is just as difficult as it ever was. But there are many other difficult places on the face of the Earth which will require a quick reaction.

It is, therefore, absolutely essential, Madam President, that we allow for these 36 roll-on/roll-off ships. Now there are 19 of these 36 ships that have yet to be built. There are six what we call options. An option really is an offer stating a price, stating a means to build a ship, with a specified time for acceptance of that offer. There are now six of those options at a shipyard in my State, Avondale; six at NASSCO, National Steel, I think, in California, in San Diego; five conversions of presently existing ships; and two yet to be determined.

The first two of those options at Avondale have been exercised. The first two at NASSCO have been exercised.

What the Armed Services Committee did was put in this budget $600 million to pay for those first two NASSCO and Avondale ships, so that we are just beginning on meeting these requirements for fast sealift. And the first $600 million was placed here in order to do that.

What the Armed Services Committee was told was that this amendment would not interfere with those first four ships going forward and being constructed. In fact, it would not only prevent those ships from being constructed, but the LHD–7, which is an excellent amphibious attack ship, which is the alternative funding provided by the Armed Services Committee. That is a $1.4 billion ship.

So you take the first $600 million, and you have an unmet obligation for the additional $800 million, which would probably not only take these four fast sealift ships, but take the next six or so fast sealift ships. So you would be saying probably so long to the whole fast sealift program.

Madam President, I am sure the Armed Services Committee would not have done that had they been given the correct information. I feel sure that the Senate would not do that based upon the correct information. It is rare that you can stand on the floor of the Senate and have an issue which is really clear, because usually by the time issues are here on the floor of the Senate they are hotly debated, highly controversial, with equities on both sides.

With respect to this issue, Madam President, I say without fear of contradiction there is no other position than the position of Senator FEINSTEIN and me with respect to this amendment. I hope that we will be able to find an alternative way of funding the LHD–7 which, as I mentioned earlier, is an excellent amphibious attack ship. Everyone would like to fund it, and I would like to cooperate with my distinguished friend from Mississippi, Mr. LOTT, in finding an alternative way to do that. But the fast sealift program Madam President, is the centerpiece of our new doctrine. You cannot have it both ways. You cannot reduce the size of your armed force and have a doctrine that depends upon a projection of power by fast mobility of those troops to a trouble spot quickly, and then deny the ability to get them there.

That is what the action of the Armed Services Committee, inadvertently, mistakenly, to be sure, in good faith, to be sure, but nevertheless that is exactly what the action of the Armed Services Committee has done.

All our amendment does is restore what General Shalikashvili says is the centerpiece of this program.

I would also like to print in the RECORD at this point, Madam President, a letter from Gen. Colin Powell, dated 9 July 1993, really to the same effect; the final sentence being: "Your continued support for the MRS"—that is the mobility requirement study—"recommendations is critical if we are to solve the identified mobility shortfalls."

Madam President, I ask unanimous consent to print that letter in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT CHIEFS OF STAFF,
Washington, DC, July 9, 1993.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, This letter reaffirms my full support for the recommendations of the Mobility Requirements Study (MRS). I understand that there are Congressional questions regarding whether a final decision on the MRS recommendations has been made and if additional analysis concerning alternative pre-positioning options is required.

A decision on the MRS recommendations was made when the Secretary of Defense signed Volume I of the MRS on 23 January 1992. The MRS remains the central defining mobility document within the Department of Defense, as evidenced by the recent Deputy Secretary of Defense approval of MRS Volume II. Exhaustive analysis during the study demonstrated the MRS recommendations to be the best solution for meeting warfighting requirements at moderate risk at the lowest possible cost. Further analysis is not needed and would either hold in abeyance or slow the acquisition of the MRS-recommended lift assets, and will delay implementation of the needed mobility improvements.

Your continued support for the MRS recommendations is critical if we are to solve the identified mobility shortfalls.

Sincerely,

COLIN L. POWELL,
Chairman of the Joint Chiefs of Staff.

Mr. JOHNSTON. Madam President, I would simply like to emphasize what the Chairman of the Joint Cheifs of Staff says in his letter of this month: "Please reverse these actions to support our sealift requirements. The military strategy critically requires it."

"The military strategy critically requires it."

Madam President, there is no other position, I submit, but to support the position of Senator FEINSTEIN and myself, and I urge the Senate to do so.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. FEINSTEIN. Madam President, I rise today as an original cosponsor of this amendment to restore $600.8 million to a high-priority military program—the National Defense Sealift Fund.

The Sealift Program is extremely important to U.S. national security. As fewer U.S. troops are deployed overseas, it becomes even more important to have the ability to quickly and effectively transport military personnel and equipment anywhere in the world.

The sealift program—and the National Defense Sealift Fund—addresses this high priority national security requirement and is strongly supported by the Joint Chiefs of Staff and the regional commanders in chief.

Before I get into the specifics of the sealift program and why it is so important to restore the funds requested by the President, let me briefly summarize how we got to this point.

INCORRECT INFORMATION

During its markup of the Defense Authorization Act, the Senate Armed Services Committee recommended shifting $600.8 million from the National Defense Sealift Fund to the LDH–7 amphibious assault ship, which was not requested by the President nor supported by the Pentagon.

However, as the chairman of the Armed Services Committee and others now realize, the committee's action was based on factually incorrect information provided to staff by the Navy.

In a recent memorandum to the committee, Admiral Natter, the Chief of Navy Legislative Affairs, states that certain events resulted "in your staff being provided incorrect information regarding the option expiration date for new construction ships * * * the option expires on December 31, 1994 vice December 31, 1995."

I ask unanimous consent that the memorandum be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mrs. FEINSTEIN. As a result of this error, fiscal year 1995 funds were shifted to the LHD–7 amphibious assault ship—which, by the way, will be incrementally funded at only 40 percent of the actual cost of $1.4 billion—on the assumption that new construction of the sealift ships would not be affected. However, without fiscal year 1995 funds for the National Defense Sealift Fund, options for new construction of sealift ships cannot be exercised, and this high-priority program will be unacceptably delayed.

So, I believe that if incorrect information had not been provided to the committee by the Navy, we would not be here today. This amendment corrects the Armed Services Committee's action, which was based on faulty information.

SUPPORT FROM THE JOINT CHIEFS OF STAFF

It is vitally important to restore money to the National Defense Sealift Fund. As I previously stated, this program is also strongly supported by the Joint Chiefs of Staff. Let me read from a recent letter from General Shalikashvili to the committee:

I am writing to express my concern about the current version of S. 2182 that would significantly damage our long-standing, integrated lift requirements as expressed in the 1992 mobility requirements study (MRS) and supported in our budget request.

My primary concern is that the proposed legislation diverts all fiscal year 1995 funding from construction of two large medium speed RO/RO ships (LMSR) to an initial down payment for another multi-purpose amphibious assault ship (LHD) * * *.

This diversion would place at risk the centerpiece program of the MRS despite the critical shortfall cited by many CINCs in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense.

So, as you can see, General Shalikashvili, the Chairman of the Joint Chiefs of Staff, strongly supports restoration of the National Defense Sealift Fund.

I ask unanimous consent that this letter, as well as letters from General Fogleman, commander of U.S. Transportation Command, and A.J. Herberger, Maritime Administration, also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mrs. FEINSTEIN. Madam President, the Sealift Program is also supported by the Secretary of the Navy.

I called the Secretary of the Navy last night and said, "Secretary Dalton, what about this program?"

He said, "It is our top priority."

I said, "What about the LHD–7?"

He said, "No question, it is a good ship; but this is our priority and this is what we are asking for."

I said, "May I quote you?"

He said, "Yes, you may quote me."

As you know, and has been said, as a result of the mistaken information, funding of $600 million was applied to the LHD–7.

I would very much like to accommodate my colleague from Mississippi. We have worked together on other matters. If an offset could be found, I would be happy to make this accommodation.

I was in the chair, Madam President, when the chairman of the Armed Services Committee, the distinguished Senator from Georgia, reported yesterday that the authorization is larger than the 602(b) allocation. So unless an offset can be found, when the issue comes to appropriations, there will be a real problem in terms of two competing programs.

REQUIREMENT FOR SEALIFT SHIPS

The requirement for the roll-on/roll-off ships is well documented. The Nation's deployment to Operation Desert Shield/Storm highlighted a significant shortfall in strategic sealift assets. Hence, Congress mandated the Pentagon to conduct a mobility requirements study to determine the Nation's strategic airlift and sealift requirements.

The study, concluded and approved by the Joint Chiefs of Staff in January 1992, states that the Nation should have the ability to deploy 2 million square feet of Army prepositioned afloat equipment sets available for combat operations within 15 days of the beginning of a conflict, and the ability to surge two Army heavy division ready for combat operations within 30 days of the beginning of a conflict.

These roll on/roll off ships, with a capacity of nearly 400,000 square feet per ship, have the ability to meet the requirements in the mobility requirements study.

IMPACT OF NOT FUNDING SEALIFT

Let me quote from a Defense Department point paper on the effects of not funding the National Defense Sealift Fund at the requested amount:

Result: Increased risk of early casualties and loss of key facilities. Loss of deterrence value obtained through perception that United States will respond rapidly and with overwhelming capability if challenged.

The DOD point paper goes on to spell out the real risks to our fighting forces and the major threats to U.S. national security if these sealift ships are not funded in fiscal year 1995. As it states, any delay to sealift funding is detrimental to our military strategy—even a 1 year delay.

I ask unanimous consent that the DOD point paper also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER.

Without objection, it is so ordered.

(See exhibit 3.)

SHIPYARD CONTRACTS

Mrs. FEINSTEIN. Let me now just briefly touch on what the actual impact to the shipyards and the new construction contracts will be if funding for the National Defense Sealift Fund is not restored and the contract options for the second and third ships are delayed.

The two shipyards that won the competitive bidding process to construct the sealift ships are the National Steel and Shipbuilding Company [NASSCO] in San Diego, and Avondale in New Orleans. So, this issue is particularly important to California and Louisiana, as well as many other states with various suppliers and subcontractors.

If the National Defense Sealift Fund is not fully funded in fiscal year 1995 and the contract options are not exercised by the expiration date of December 1994, the following would happen:

Most importantly, the high priority sealift program will be unacceptably delayed up to 14 months, which puts U.S. national security and our war fighting strategy at risk;

Any disruption in the program with the current contract options would result in increase program costs due to the loss of learning from ship to ship, higher overhead costs, layoff/rehire costs and other factors;

Contracts will have to be renegotiated, and then questions arise about increased cost, as well as contract disputes and protests; and

The 12 to 14 month gap between construction of ships 1 and 2 would disrupt the series construction of up to 5 additional ships and cause the shipyards to lay off and then rehire over 1,000 workers—something that would be devastating to the San Diego area and the entire State of California which has been hit hard by defense downsizing and military base closures.

The sealift contracts were justly competed and fairly won. Funds are needed in fiscal year 1995 to exercise the two planned options for additional RO/RO ships.

LHD–7 AMPHIBIOUS ASSAULT SHIP

While I do not necessarily oppose the LHD–7 amphibious assault ship, I do oppose the way its authorization is being proposed.

I strongly oppose funding the LHD–7 by shifting funds out of a higher priority military program—the National Defense Sealift Fund.

Additionally, the Pentagon does not plan to request funding for the LHD–7 until the year 2000. Yes, amphibious assault ships are important and they have a place in the U.S. military. But, priorities need to be determined and decisions need to be made.

The Secretary of Defense and the Joint Chiefs of Staff determined that sealift ships are a higher priority, and the President's fiscal year 1995 budget requests reflects this priority—it requested funds for sealift, and did request funds for the LHD–7.

The LHD–7 would be also incrementally funded at only 40 percent of its actual costs of $1.4 billion. Therefore, in addition to authorizing $600 million in fiscal year 1995, we will have to come up with the additional $800 million next year, plus find the $600 million in funding for this year's requested sealift ships.

As a result, funding the LHD–7 from the National Defense Sealift Fund becomes a $1.4 billion problem for the Department of Defense and Congress next year—funds that were not anticipated nor programmed. With a defense budget as tight as it is, I cannot justify placing a financial burden on tomorrow's defense budget simply to fund another, lower priority program, today.

CONCLUSION

The sealift program is extremely important to U.S. national security, as documented by the Defense Department's Mobility Requirement's Study. The sum of $600.8 million for the National Defense Sealift Fund was requested by the President in fiscal year 1995, is supported by our military leaders, and—if not for incorrect information being provided to the Armed Services Committee—would not have been shifted to fund the LHD–7 amphibious assault ship, which was not requested by the President nor supported by the Pentagon.

This amendment would simply restore the President's budget request by returning the $600.8 million from the LHD–7 to the National Defense Sealift Fund, thus protecting the sealift program and U.S. national security.

I strongly urge my colleagues to support the amendment.

EXHIBIT 1

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 13, 1994.

Memorandum for Mr. Steve Saulnier and Mr. Creighton Greene.

Subject: Sealift New Construction Contract Options.

1. The attached Memorandum describes the sequence of events which resulted in your staff being provided incorrect information regarding the option expiration date for new construction ships 2 and 3 awarded to NASSCO. Contrary to the initial information provided to OLA by NAVSEA on 9 June, the option expires on 31 December 1994 vice 31 December 1995. The correct option expiration date (31 Dec 94) was provided to my office on 10 June and passed immediately to you on that same date.

R.J. NATTER.

JUNE 10, 1994.

Memorandum for the Chief of Legislative Affairs.

Subject: Sealift New Construction Funding.

1. Prior to the mark on 09 June, Mr. Steve Saulnier, PSM, SASC, requested the funding profile for the National Defense Sealift Fund and the sequence of contract option awards. The NAVCOMP SCN/NDSF analyst provided the attached table of NDSF obligations. Prior to providing the table, I contacted the Strategic Sealift Program Office and was referred to Mr. Jack Cameron, Director of New Construction (NASSCO). My specific question at this time was, "When does USN intend to award the options for the FY94 and FY95 new construction sealift ships?" I received the response that the first option for each yard was for two new construction ships, with the first award planned for August 94 (Avondale) and the second award planned for Feb 95 (NASSCO). My notes from this conversation were written on the bottom of the attached NDSF funding table. This table was provided to the SASC.

2. On 09 June (approx 1100), Mr. Saulnier asked the question, "For the option planned for award in Feb 95, when does that option expire, 30 Sep 95 or 31 Dec 95?" I again contacted Mr. Cameron for the answer. His response was the option expired on 31 Dec 95. I passed this information to Mr. Saulnier.

3. On 09 June at approximately 1630, Mr. Creighton Greene, PSM, SASC, called to confirm the information concerning the contract options. I called NAVCOMP NDSF/SCN analyst and her recollection was the options were calendar year options, but she requested I contact the program office to confirm. I again called Mr. Cameron and asked him the impact if the Sealift Procurement funds were delayed until FY96. His reply was that this would result in a delay of the award from Feb 95 to Dec 95, would cause a 10 month delay in the five NASSCO new construction ships, and would result in a cost escalation. I asked Mr. Cameron to provide an estimate of the cost impact, but he indicated the budget analysis would take time. He again confirmed the date of 31 Dec 95 for

the NASSCO options. I informed Mr. Greene the program office confirmed the dates and the deletion of the FY95 funds would delay the five NASSCO new construction ships approximately one year and cause a cost escalation.

4. On 10 June at approximately 0900, Mr. Cameron called me to state he had erred in his information concerning the contract option expiration dates and provided the attached memo.

M.E. FERGUSON, *CDR USN.*

MEMORANDUM

JUNE 10, 1994.

From: John Cameron (PMS3851).
To: Cdr. Mark Ferguson (OLA).
Subject: Strategic Sealift Option Exercise Dates.
Ref: (a) Phonecon Mr. Cameron/Cdr Ferguson of 9 Jun 94.

1. This memo provides clarification of the existing Contractual option exercise dates for the first two follow on ships for both new construction contracts awarded to Avondale and NASSCO. The option exercise dates for ships 2 & 3 for each contract is "not later than 31 December 1994". The current plan is to exercise the Avondale options with available funding provided through FY94 in the Aug/Sep 94 time frame and the NASSCO options with FY95 funds prior to 31 Dec 94. The FY95 HASC report, which deleted the FY95 funds but in turn would make available the same amount of the FY94 $1.2B of the carrier funds, thus would not impact the exercise of the two ship NASSCO option. Any adjudication of the stop work order resulting from the protest is not expected to shift the "exercise option date" to the right more than four and a half months. Therefore, FY95 funds are still required to exercise the NASSCO two ship option.

2. Any information that was passed to you during reference (a) that differs from this information was incorrect.

JOHN C. CAMERON,
Director,
NASSCO New Construction.

QUESTIONS CONCERNING SEALIFT AWARDS

Q1. What do the Avondale and NASSCO contracts specify as the expiration dates for options on ships 2 through 5?

A1. The contract option dates for AII and NASSCO ships are the same, and are as follows:

Ship Numbers:	*Option expiration date*
2 and 3*	12/31/94
4	12/31/95
5	12/31/96
6	12/31/97

*Contract requires exercising 2 ships and has no provision to exercise only one.

Q2. What is the impact of the contract protest resolution on the option expiration dates?

A2. The Navy is negotiating an extension to the option exercise dates for NASSCO option to reflect the 4½ months stop work order which was imposed as a result of the award protest to GAO. This adjustment is in process and exact extension and cost is to be determined.

Q3. What is the amount needed to exercise LHD–7 option prior to expiration?

A3. $1.4 billion is required to exercise the current option to produce LHD–7. (incomplete answer)

Q4. What is the cost associated with extending the option dates for the two NASSCO ships until FY96? Of extending one option each for Avondale and NASSCO until FY96? What are the contractual implications of extending the options?

A4. The costs for extending the first option for two ships for NASSCO and of extending one ship for each contractor of the first option for two ships would have to be investigated further. The contracts were not structured with those provisions.

NDSF FUNDING REQUIREMENTS

	FY 1993 and prior	Fiscal year—					
		1994	1995	1996	1997	1998	1999
NDSF funding	2,463.5	1,540.8	608.6	622.2	1,169.1	618.6	2.2
Conversions	5/1359.1						
New construction	2/757.2	2/581.6	2/600.8	2/603.1	4/1167.0	2/616.4	
R&D efforts		2.0	19.2	19.1	2.1	2.2	2.2
RRF procurements			43.0				
Loan guarantees		50.0					
Transfer to CVN–76		1,200.0					
End cost balance	*347.2	*54.4					

*Balances from prior year appropriations are used to offset fiscal year 1994/1995 funding requirements. Obligated to date is approximately $1819.1 million. Options for 2 ships will be awarded in both fiscal year 1994 and fiscal year 1995.

Note.—First option pickup is for 2 ships to 1 yard. Fiscal year 1994—August 1994; fiscal year 1995—February 1995.

EXHIBIT 2

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 22, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to express my concern about the current version of S. 2182 that would significantly damage our long-standing, integrated lift requirements as expressed in the 1992 Mobility Requirements Study (MRS) and supported in our budget request.

My primary concern is that the proposed legislation diverts all FY 1995 funding from construction of two Large Medium Speed RO/RO ships (LMSR) to an initial down payment for another multi-purpose amphibious assault ship (LHD) and also funds two Maritime Pre-positioning Ships (MPS) that the Department of Defense did not request. I understand this committee revision was based upon erroneous information, later corrected, which was provided to you by the department. However, this diversion would place at risk the centerpiece program of MRS despite the critical shortfall cited by many CINCs in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense.

Another concern I have is that the bill diverts $43 million in funding from the purchase of Ready Reserve Force (RRF) RO/RO ships which are key to the surge of early arriving forces. The SASC instead funds a subsidy program to incorporate defense features on future US-built commercial ships. This would sacrifice near-term readiness that supports early combat force deliveries in favor of an unproven concept designed to deliver follow-on material. At a minimum, I request the Senate provide the Department the legislative authority to acquire these ships.

If enacted, these measures will unravel our carefully constructed sealift acquisition program. This measured and studied program has enjoyed wide support among military professionals, defense executives and the Congress as both absolutely essential and fiscally responsible. The MRS, a rigorous study which included over 90 warfighting analysis cases, also received the endorsement of each member of the JCS.

Please reverse these actions to support our sealift requirements—the military strategy critically requires it. I strongly support the execution of the MRS program.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

U.S. DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION,

Washington, DC, June 16, 1994.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: I am writing to express concern about the recent House Armed Services Committee reallocation of $43 million in the National Defense Sealift Fund (NDSF) for a National Defense Features (NDF) Program, in place of the acquisition of Roll-on/Roll-off (RO/RO) vessels for the Ready Reserve Force (RRF) in Fiscal Year 1995. This redirection of RRF acquisition funds would have a serious negative effect upon the implementation of the Department of Defense (DOD) integrated mobility plan proposed at the completion of the Mobility Requirements Study (MRS) and the Bottom-Up Review.

The MRS determined that 36 RRF RO/RO vessels, able for loading within 4 days, are required for strategic sealift. Although 12 RO/RO's were purchased for the RRF in FY 1993, seven ships are still needed to reach this fleet's RO/RO capacity. The Administration's program to add sealift capacity includes new construction, conversion of existing ships, and procuring ships available on the market today. The purchase of used ships is vital because it allows for the near term acquisition of commercial ships that are still in good condition and are useful for military operations.

This $43 million request for FY 1995 is necessary to continue these RRF acquisitions. Any reduction in funding for the RRF would seriously delay necessary enhancements to strategic sealift. At a time when sealift mobility is an increasingly important element of U.S. strategy, it is important that we proceed with a balanced program to acquire the most cost-effective mix of sealift vessels.

For these reasons, I strongly urge you to support the use of $43 million in the NDSF for the purchase of existing RO/RO's for the RRF in support of the DOD integrated mobility plan.

Sincerely,

A.J. HERBERGER,
Maritime Administrator.

U.S. TRANSPORTATION COMMAND,
Scott Air Force Base, IL, June 21, 1994.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: The Commander-in-Chief of the United States Transportation Command is responsible for the readiness of America's Defense Transportation System—an integrated and balanced system of air, land, and sea assets. Responsibilities for readiness include both today's assets and the programs to ensure continued capability in the future. It is the latter that is of immediate and considerable concern.

The President's budget request provides for the necessary enhancements and modernization required to maintain a viable Defense Transportation System. However, if the current language contained in the Senate Armed Services Committee markup of the FY95 Defense Authorization Bill is not amended, it will seriously damage our sealift modernization program and threaten the viability of the entire Defense Transportation System.

Specifically, there are two issues of concern:

—the diversion of all FY95 funding from the construction of Large, Medium Speed Roll-on, Roll-off ships (LMSRs) to a down payment on an amphibious assault ship and two Maritime Prepositioned Ships (MPSs). This would seriously disrupt a key modernization program recommended in the Mobility Requirements Study and unanimously endorsed by the Secretary of Defense, the Chairman and the Joint Chiefs.

—the diversion of $43 million in funding from the purchase of Ready Reserve Force (RRF) RO/ROs to provide a subsidy program for defense features on future US built commercial ships. This would sacrifice near term readiness and early surge capability for an unproven concept designed to deliver follow-on forces.

All regional CINCs cite sealift as one of their critical shortfalls. The President's budget request will provide a significant near-term improvement in our sealift capability. However, the changes contained in the Senate Bill will eliminate these improvements and seriously threaten USTRANSCOM's capability to support the transportation requirements of America's war fighting CINCs. I request your support of the President's budget request on sealift enhancement.

Sincerely

RONALD R. FOGLEMAN,
General, USAF,
Commander in Chief.

EXHIBIT 3

INFORMATION PAPER—JUNE 21, 1994

Subject: Impact of the Senate's Mark of the FY 95 Defense Authorization Bill on the Recommendation of the Congressionally-mandated Mobility Requirements Study (MRS).

1. Purpose. To provide information regarding the Senate Mark and the MRS.

2. Background. Our Nation's deployment to OPERATION DESERT SHIELD highlighted a significant shortfall in strategic mobility assets. Congress mandated the Mobility Requirements Study to determine the Nation's strategic airlift and sealift requirements. The Mobility Requirements Study used approved scenarios which described a future where strategic mobility was the linchpin for successful power projection operations. The deploying US forces were joint and complementary, and employed decisive force to reduce the risk of high casualties. The MRS recommendations support Joint Doctrine where force projection is critical to achieving military objectives. The Senate Mark challenges this integrated strategic mobility plan and places at risk the MRS recommendations which allow for the timely deployment of decisive force and low casualties.

3. At Risk MRS Recommendations.

a. The MRS recommended the acquisition of up to 20 Large Medium Speed RO/ROs (LMSRs). When the actual ship design was finalized the number of LMSRs was fixed at 19. Eight of these ships represent the MRS recommended capability to place 2 million square feet of Army unit sets of equipment afloat. the remaining eleven LMSRs represented the MRS recommended capacity to surge three million square feet of units equipment sets from the US. The eleven surge LMSRs, when combined with the currently available (on-hand since the 1980s) eight Fast Sealift Ships (FSS) will be adequate to strategically lift the MRS recommended two Army heavy divisions from the US in thirty days.

b. The MRS recommended the acquisition through purchase off of the open market of 19 Ready Reserve Force (RRF) RO/ROs to bring the RRF RO/RO total to 36 ships. The MRS further recommended that all thirty-six ships be maintained in Reduced Operating Status—4 days (ROS-4) to meet surge sealift requirements. When combined with the eleven surge LMSRs and the eight FSSs the surge requirements—deployment of heavy forces rapidly—determined by the MRS are met. While acquisition of the additional RRF RO/ROs are necessary for surge sealift requirements, the MRS further recommended the modernization of the aging Breakbulk ships that contribute later in a deployment. Additionally, the MRS noted that alternative ship concepts such as Build and Charter, charter, and National Defense Features were possible alternatives for modernizing this slow shipping which follows surge.

c. The effect of the MRS recommendations provides the Nation with the ability to deploy two million square feet of Army Prepositioned Afloat equipment sets available for combat operations within fifteen days and the ability to surge two Army heavy divisions ready for combat operations within thirty days. The Senate Mark potentially places this surge capability at risk.

INFORMATION PAPER—JUNE 21, 1994

Subject: Senate Mark of the FY 95 Defense Authorization Bill

1. Purpose. To provide information regarding the Sealift issues concerning the Senate Mark.

2. Background. The Senate Mark of the FY 95 Defense Authorization Bill in essence eviscerates the strategic mobility sealift recommendations of the Congressionally-mandated Mobility Requirements Study (MRS). Volume I of this study, begun during the Nation's deployment to OPERATION DESERT SHIELD and completed in January 1992, identified our Nation's glaring strategic mobility shortfails. The MRS recommended acquisition of up to 20 Large Medium Speed Roll-On/Roll-Off ships (LMSRs) through conversion or construction in US shipyards and 19 additional Ready Reserve Force (RRF) used RO/ROs purchased off the open market (for a total of 36 RRF RO/ROs). The LMSRs and RRF RO/ROs together meet the requirement to deploy heavy forces rapidly (surge sealift). The Senate Mark eliminates the planned exercise of contract options to initiate construction of two LMSRs scheduled for FY 95 and places the options for eight more at risk. While this superficially appears to simply delay the LMSR program, the impact of the mark may force the renegotiation of the LMSR contracts and destroys confidence that funding is assured. This sets a precedent for using critical sealift funds as a bill payer for other, not requested projects.

The Senate Mark also diverts funding for two RRF RO/ROs to subsidize an unproven program that, at best, several years in the future may provide some capability to deliver late arriving materiel. In conjunction with action by the House Merchant Marine and Fisheries Committee which similarly diverts funding from previously authorized and appropriated acquisition of five RRF RO/ROs, the Senate Mark is a major blow to near-term improvement in surge sealift capability. In short, the Senate Mark puts at risk the Nation's capability to meet the timelines to successfully fight one, much less two major regional conflicts.

3. Primary Impacts.

a. The mark reduces the number of LMSRs and RRF RO/ROs validated by the Congressionally-mandated MRS. These assets are a critical element of our Nation's power projection strategy. Result: Increased risk of early casualties and loss of key facilities. Loss of deterrence value obtained through perception that US will respond rapidly and with overwhelming capability if challenged.

b. The MRS recommended eleven LMSRs be added to Military Sealift Command's eight Fast Sealift Ships for surge sealift (the remaining 9 of the 20 being recommended for afloat prepositioning). The recommendation provided this surge sealift to move two heavy Army divisions anywhere within 15 sailing days. Because of this mark and its potential risk to the eight follow-on LMSR options (3 or 5 Avondale options and 3 or 5 NASSCO options), the Army would not be able to deploy two heavy divisions in the required time. Result: Increased risk of loss of early land dominance.

c. The MRS also recommended acquisition of 19 RRF RO/ROs. This number will bring the RRF RO/RO fleet total to 36 RRF RO/ROs with all ships in Reduced Operating Status—4 days (ROS-4). These ships surge additional Army equipment to support the first two Army heavy divisions. The USMC is allocated nine of the thirty-six ships for its surge requirements. Not purchasing the remaining seven ships directly impacts both the Army's and the USMC's capacity to reinforce and sustain our deploying forces. Result: Increased risk that forces will not receive necessary support.

d. The Senate Mark redirected the funds for the purchase of the two FY95 RRF RO/ROs to buy instead a concept known as National Defense Features or NDF. This concept is based on the government paying shipyards to install NDF (e.g. special heavy duty ramps and decks, communications installation kits, etc) on ships they may build in the future for the commercial market. This means that we are not buying RRF RO/RO shipping available today and instead are allocating funds for unbuilt ships for which there is neither a valid requirement or a certified market survey. Additionally, the MRS

specifically noted that the alternative concept ships such as NDF were not a replacement for surge shipping but could be capable of replacing RRF shipping required for the middle to late delivery periods. In other words, the Senate Mark diverts funding from today's valid requirement for surge RRF RO/ROs to encouraging ship builders to build ships for which no valid requirement exists today, no commercial market survey supports, and, if built, will not meet the surge RO/RO requirement to deploy Army combat equipment rapidly to the conflict. Result: Increased Risk.

e. The Increased Risk noted after each paragraph can be directly correlated to increased American casualties. The Mobility Requirements Study's warfighting analysis demonstrated that the quicker US forces arrived in a theater the more successful they were regarding mission accomplishment and lower casualties. This mark guts DoD's ability to respond to threats to our Nation's vital interests in a timely fashion. A decreased ability to project forces results in an invitation to test our Nation's capabilities and resolve. Our ability to successfully deter threats diminishes as well.

Mr. LOTT. Mr. President, I think it is very important I be heard on this amendment. I appreciate the cooperation and the understanding of the Senator from California and the Senator from Louisiana of what I have been attempting to do here. I do think I need to further clarify the record of how we came to this point and the justification for this amendment being offered.

First, I want to talk a little bit about the DOD, Department of Defense, authorization bill as a whole. This amendment is a classic example of what we are getting into with the defense authorization and the defense funding for our country. We find ourselves more and more facing very difficult decisions, choosing between one very good, justified and needed program or another; one ship or the other; one aircraft or another. One after the other, I fear, we are making the wrong decisions or we are giving up, in an effort to deal with budget restraints, things we need for the future.

So I think this year we have reached a critical point, where we are not adequately funding the defense of our country. It has been developing now for several years. I think over the last 5 years we have reduced defense funding by about 25 percent. And we have come to the point now where we have just squeezed and squeezed until now we are affecting personnel, morale, capability, readiness. So I hope my colleagues will take a serious look at this overall bill because I think we are getting in real serious trouble and it is not going to get better. Next year will be tougher, and the next year after that, if we continue in the direction we are headed.

It is tough on the authorization committee and it is very tough on the appropriators. That is one of the reasons I think we are going to have to look at incrementally funding some of these larger, very badly needed programs if we are going to have carriers or LHD's or some of the aircraft that we badly need. Trying to get the large amount of money that it takes for some of these badly needed ships or aircraft is difficult to do in 1 year.

This ship that everybody says they want at the Pentagon, and more important that they need, costs $1.3 billion. Trying to get that in 1 year is awfully tough. The Appropriations Committee in their wisdom, in my judgment, funded the previous LHD, LHD–6, incrementally, in two parts. But they got the job done and the ship is being built now. But in program after program we are now in very serious trouble.

I think numbers of troops have been reduced too much. We are making decisions with regard to the National Guard that is affecting their capability. As we become more and more dependent on the National Guard and Reserves, we are at the same time cutting them back.

On Memorial Day in Kosciusko, MS, I was speaking at one of the Memorial Day services. An officer in the National Guard artillery came up to me and said, "We have a problem now because our funds are being cut back. They are not cutting as much as they should, maybe, in the administration, but we do not have adequate rounds to practice with." You do not get to be proficient in firing artillery, practicing with a tank, if you cannot have an adequate number of artillery rounds to fire. That is the point we are coming to.

In the case of aircraft—talk about sealift; yes, sealift is very important. So is airlift. The full Senate voted yesterday on C–17. I have mixed emotions about the decision. But what bothers me is will we make a decision? We have old aircraft, many of which have been grounded, that were worked to death, practically. The C–140's, during Desert Storm—they have had to have wing repairs, their engines have flamed out. Yet we are still depending on them, and Congress is still arguing over the C–17.

In instance after instance, the Armed Services Committee is wrestling with do we try to make the ones we have last a little longer? Do we go to some sort of a commercial reconfiguration, to use existing available commercial planes? Do we go on with this extremely expensive C–17, which has been nothing but a problem from day 1? It is a big, costly program and a lot of uncertainty about where we are headed.

Bombers. The Armed Services Committee, in the subcommittee I serve on, has spent a long time talking about bombers. What is going to be our capability for a long-range bomber? The administration requested, and I assume they are going to get, a significant reduction in B–52's. We are still using B–52's. We have the B–1B's that we never have quite decided what to do with or what we are going to be able to do in the future. We have not done the necessary modifications to really make use of them. And then we have the B–2, which we have agreed, I believe, to 20. But the debate later on this very day will be do we keep that program warm? Do we keep the capability to build more B–2's? Or do we just go ahead and kill that program?

The amendment that may be offered is we are going to take that money and move it over into the base closure area, of all ridiculous places to suggest putting it.

Again, the question is are we going to have to use the old B–52's? Are we really going to modify the B–1B's? Are we going to keep the B–2 option alive? We do not know, but we are putting good programs, people's jobs, and the future of this country and its defense at stake.

On ships, we have these great battles over do we need more *Seawolf*s? How many carrier groups do we need? How many carriers should we have? How many surface ships are we going to have? As a matter of fact, we now are down to producing about five or six surface ships for the Navy a year. At one point we were building for a 600-ship Navy.

Then we were told, "Well, 400." Then somebody said, "I think the position now is 330, approximately." The truth of the matter is, at the rate we are going, at the end of this decade, we will be lucky if we have 170 Navy ships. The lines are going right down.

That is one of the reasons why this ship is so important, the LHD–7. Are we going to have the ships to do the job? Check around the world now. I can show you a world map of where we have carriers or LHA's or LHD's sitting in critical places. We are going to reach the point very soon where the call will go out and the planes, the ships, the men and women will not be available, will not have the equipment they need, will not have the training they need.

That is where we are.

With base closure, I have a great deal of sympathy and concern for what has happened across this country on base closure in the first two rounds. California has been hit so hard. I sat next to the Senator from California during the last round. She had a list: "Oh, my goodness, if they do this, it is 5,000 jobs; if they do this, it is 2,000." And it is just getting whacked away. It is not just California, it is a lot of other States.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. LOTT. I will be glad to yield.

Mr. JOHNSTON. Will the Senator agree with me that the Exon-Grassley amendment, which I think takes something like a $500 million bite this year, but takes increasingly bigger bites out of the discretionary accounts—I think it is a total of around $30 billion over 5

years—is hurting defense, really hurting defense and agriculture probably more than any others, and that we really ought to take a look at that next year?

Mr. LOTT. As a matter of fact, I share the Senator's concern about that. The point was made repeatedly when that issue came up in the budget deliberations that it should not have been applicable to defense.

I offered an amendment on that, and the Senator from Virginia offered an amendment on that. There was real concern about the impact it would have on defense, and there is still great concern about that.

But at the same time, we have to find ways to deal with the overall budget issues. Yesterday, we passed the Treasury, Postal Service appropriations bill that was above last year's spending level. You would think maybe we could at least hold the spending at perhaps last year's level.

So you can debate what we do on the budget back and forth, but that is the problem here. The Senator is right.

We have been having to make the tough decisions. Discretionary spending is being squeezed down. The Appropriations Committee has done a great job with limited funds and with restrictions from the Budget Committee. I acknowledge that. We know the real driving force in the budget deficit is now being caused by entitlements, which the appropriators do not have direct control over.

But however we got there, we are being squeezed down in the defense spending for our country.

It is leading to these types of tough decisions. That is the only point I wanted to make. I am worried about that continued development because the world has not gone to utopia. Somebody had said on this floor last year, "Oh, have you missed it? The world has changed." No, I did not miss it. The world is still very dangerous. We do not know what is going to be the situation in the future with Russia; we do not know what is going to be the situation in North Korea; we do not know what is going to happen in Bosnia and Herzegovina. The list is long. So we have a real need to have the people and the equipment available we should need in case of emergency. It is getting harder and harder to fund that.

That is how we came to the point where we are today.

There is no question that sealift is very important. We were strapped in Desert Storm to be able to get the roll-on/roll-off ships, to get the equipment over there. The Senator from Louisiana talked about that, and he is absolutely right. We had to rely on a lot of ingenuity by the Navy. We had to get into, I am sure, foreign flag ships. We had to call out some old mariners to come in and help us do the job. It was a scary situation. We do not have that sealift capability today that we had then. We have lost it. It has gone down probably even more. So there is a real need for these sealift ships.

Mr. President, for the last 4 or 5 years, I have aggressively supported sealift, fast sealift. I do today. There is no question about that. I thought, though, we had an opportunity in the Armed Services Committee to get the fast sealift ships with only a short delay and a way to get the needed LHD–7. At the time, it looked like a magnificent solution to a problem that we all agreed we had —the Navy, the Marine Corps, the Joint Chiefs. Everybody would like to have the sealift ships and LHD–7, and I will talk more about that in a moment.

In fact, I think the record will show I was one of the most aggressive committee members on the Armed Services Committee in supporting sealift. I worked very closely on the subcommittee with Senator KENNEDY. We continued to provide authorizations for sealift going back several years. The sealift account, in fact, was first created in the Armed Services Committee under Senator KENNEDY's leadership as subcommittee chairman, but with a lot of support from all of us in the subcommittee and in the full committee.

Much of the testimony and history in the Armed Services Committee was established approving the importance of sealift, and a lot of the questions that built that history I had the opportunity to ask. For the first 2 or 3 years, I actually was sort of tagged with the moniker "Senator Sealift"—you keep talking about sealift—because I very aggressively supported it. I was an advocate of sealift before the Army became an advocate of it, before the mobility requirement study was even started and before we learned the lessons of the gulf war. So I want the record to be clear that I feel very strongly about sealift and supported putting funds in it when they were not being spent.

I remember spending a considerable amount of time with the Chairman of the Joint Chiefs, Colin Powell, urging that the Sealift Fund Program be moved forward, commitments be made. The Senators will remember it kind of languished there for about 2 years. They were not sure how to move it forward. I remember bending the ear of Secretary of Defense, Dick Cheney, saying, "Make a decision on this program, move it, award the contracts."

Finally, it did get going, and I want it to keep going. In fact, I would like to quote from one of the reports from the Armed Services Committee in the fiscal year 1991 authorization bill. On page 18 of the report it said:

> Current U.S. capabilities for intervention at a distance where there are few bases and limited infrastructure are not fully suited to U.S. needs. Today, the United States has the greatest force projection capability of any country in the world. However, in general, Army light forces are rapidly deployable but lack sufficient firepower, sustainability and ground mobility. Army heavy forces are too heavy and too slow to deploy and in recent years, Marine Corps forces have allowed their increase in equipment to outstrip their ability already available in the inadequate amphibious lift.
>
> To meet potential force projection missions, the United States must restructure forces in accordance with the following priorities:
>
> It must give priority to forces that are inherently mobile and rapidly deployable, maritime based expeditionary forces, long range and technical air forces and light combat forces that can be quickly transported using amphibious lift sealift and airlift assets.

The point I am trying to make is, as far back as 1991, the subcommittee, the full committee and the report emphasized the need for this sealift capability.

I do not want to undermine this part, but I had information from the Navy, which Senator BENNETT JOHNSTON has referred to, and others, that as a matter of fact, the contract option on the two ships for the next fiscal year does not expire until December of 1995. This is not information I fabricated or intentionally used to mislead the committee. This was assurance that I had gotten from the Navy as to when that contract option would expire.

So it looked to me like there was an opportunity to use that $600.8 million to begin the authorization to incrementally fund in two parts this LHD–7, because the LHD–7 contract expires in December 1994, this year.

Based on the information I was given about the sealift contracts, two more of the ships could be awarded in August of this year, to Avondale and two more would be available next year with a delay of only about 7½ months and provide the next two. The funds would be there for that and we could use the $600.8 million this year for this contract. It seemed like a brilliant stroke, a way to accomplish everything that we wanted to accomplish.

With regard to the LHD–7—talking about priorities—I understand that the very top priority of the Navy is the carrier. But there is no question that the Pentagon, the Army, the Joint Chiefs feel very strongly about the sealift, but they also have testified up and down the line that we need LHD–7. Not that they want it, they need it. If we are going to have the capabilities we are committed to in the Bottom-Up Review, we must have the seventh LHD.

Let me read you some of the quotes. These are what the leaders testified before the Armed Services Committee about LHD–7.

General Mundy, Commandant of the U.S. Marine Corps, on April 12, 1994, in testimony to the Senate Armed Services Committee Regional Defense Subcommittee: "12 ARG's are the minimum required." In order to have these

12 ARG's—Navy terminology, Marine terminology—you must have seven LHD's.

General Hoar, in testimony before the committee, March 3 of this year: We need LHD–7 and 12 of the amphibious-ready groups to make sure that "we maintain the naval posture that is the backbone of our forward presence."

Admiral Owens, Chairman, JROC, testified that 12 of these amphibious-ready groups "is the number we should continue to use as our goal."

Admiral Kelso, March 1993: "An additional LHD, the seventh, would be required to fully support the 12 ARG goal."

And the list goes on with similar quotes from Admiral Arthur, Admiral Jeremiah. Everybody agrees that this is something we need in order to do the job we are committed to do.

So that is why I am so committed to the LHD, because we have a time problem. December of 1994 the contract option expires. If we let this contract option expire and wait until the year 2000 to get this seventh LHD that everybody says we need now, it will cost $800 million more. That is what is at stake here—$800 million more to get a ship that we have the capability to get now and that we need now. We could build two other very vitally needed navy ships for what it is going to cost us if we wait until the year 2000.

Now, let me show my colleagues what we are talking about.

This LHD is an incredible vessel. It can do a lot of what it would take a combination of other ships to do. It can do a lot of what a carrier will do. When you move an LHD into position off the coast of some strife-torn country where we have a national security interest, it has an impact. You are talking about 2,000 marines on this vessel—2,000 marines—with helicopters, 46 large helicopters, I believe is the number, and Harrier jump jets. Aircraft can take off of this deck simultaneously. You can have aircraft taking off, helicopters taking off. It has the air cushion vessel that comes out of the end. You have landing craft.

You can do almost everything with one of these ships. It has a fully equipped hospital right at this level. So we are talking about an incredible, multipurpose, amphibious warship to take Marines wherever the need exists.

That is what we say we want. That is what everybody says they need. I have discussed this particular ship with the Chairman of the Joint Chiefs, with the Vice Chairman, Chief of the Navy, Commandant, Secretary of the Navy, right down the line. They all say, yes; it is just a question of where do we get the funds. That is what I have been working on. I worked on it at the subcommittee level and at the full committee level. I came up with an idea based on information I was given by the Navy, and I realize that has presented problems. But I will continue at this very moment to work with any and all Members of the Senate and the Pentagon to try to find a way to fund this ship because we do need it; it is an incredible ship.

Now, what is the alternative?

We need the fast sealift ships, and this is just a conceptual version of the ship because we do not have it yet. It is under contract, and it is moving forward. But you are talking about basically a cargo carrier. We need them; I do not deny that. But by delaying two of these, which are not going to fire a shot, you get one of these, a very incredible marine vessel—a pretty good tradeoff. Now, if you do not have this vessel show up at the critical time, you are never going to have a need for this one.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. LOTT. I will be glad to yield.

Mr. JOHNSTON. The Senator said by delaying the two—he calls them cargo ships—fast sealift ships, you are getting one of the big ones. Actually, you get about 40 percent of the big one and you still owe about 60 percent or another $800 million after you spend this $600 million; is that not correct?

Mr. LOTT. That is correct. Incrementally funded, $600 million this year and then about $700 million in the second year. But the other side of it is, if we do not get this vessel now, we may never get it. That is a very important point that I think we have to think about and worry about. It is like an aircraft; the same is true with ships. You lose the capability, you may have lost it. It takes time certainly to get it back in place.

I wish to emphasize again the last one of these that was funded, it was incrementally funded, in the wisdom of the Appropriations Committee, in two pieces. That is all we are trying to do here, do it in two pieces. But the fact remains that for the price of those two fast sealift ships, you do get 40 percent of one of these.

Again, I emphasize, I acknowledge that the problem is, with this budget restraint we have, the cost of a large vessel like this. It is tough to do. But I just wanted to show you what was involved here, the ships we are talking about, and give you some concept of what we are talking about. I emphasize again that I support sealift. I want those ships built. I think we are going to need them. I think they are an important part of our military capability in the future. But I also know we need LHD–7 now, and the time is running out. The time is very short.

So I have worked diligently with every member of the committee and many Members of the Senate who have spoken today or will speak to try to find some other way to do it, and I am here today looking for another option, another source of funds, some way to accomplish this.

I have talked to the chairman of the Armed Services Committee repeatedly. He is familiar with the problem. He is sympathetic to the problem. But he says, as has always been the case, he is opposed to incremental funding. It is not this one. He has been consistently over the years. I acknowledge that. But I am here now acknowledging that we were given incorrect information by the Navy as to when the contract option on the sealift expired.

I state emphatically that I want sealift ships to move forward but urge my colleagues to think about the needs that we are giving up and urge that consideration and assistance be given to me and to us for the country's sake to find a way, some way, to keep the LHD program alive, some way to authorize it so that the appropriators will have the opportunity to look for a way to fund this program. They have proven in the past that they are ingenious in dealing with it. We do not know what the funding level is going to be for planes and ships and tanks and everything else. The appropriators may have a completely different mix by the time they get to their final choice. So I am trying to find a way to do here in the full Senate as I did in the Armed Services Committee, to keep that option available.

So I will yield at this point, but I do want to continue to work with my colleagues on the committees that are involved—and my colleague from Mississippi is very much involved—in trying to find a solution here, and we will be looking for that as the day goes forward.

I yield the floor at this point, Mr. President.

Mr. NUNN. Mr. President, I do not want to hold out false hope here about this ship this year, but I also want to add just the realistic picture of where we are now on this ship. That is that the House Armed Services Committee has some money in their bill for this ship. I believe it is $50 million. I believe it is $50 million. I am not sure whether it is $50 or $100 million. It is probably in the nature of long-lead item. They are incrementally I suppose funding this ship.

We normally have opposed that in conference. But it is a live issue in conference. At least by the time we get through conference, the appropriators, if they are going to find this kind of money—and I am sure the other Senator from Mississippi will be there diligently searching, and we would certainly be notified of that. But on this issue, if you were to move to this vote today, if this money were taken out today, it would be like a lot of other things in Washington. It would not be a concluded issue.

I will not make any pledges about where I would be on it. But I would certainly say it would be a live issue, and that we would certainly not—and we

never have had—have a closed mind in conference when we go to conference, or we could not complete a bill.

We certainly always listen to our appropriators, particularly if they can come up with a bag of money. Sometimes the appropriators are good at doing that. We always have to look at where that bag of money comes from. There are two questions when you are dealing with these matters, whether it is our committee or the Appropriations Committee; that is, where is the bag of money they come up with going? And the other is where does it come from?

I think Senators find very quickly if the bag of money comes from a matter that is of concern to the Senator from California or the Senator from Louisiana, then we hear from them. If it is a bag of money which comes from someone else, there may be a more delayed reaction time than the alert colleagues from California and Louisiana. Nevertheless, at some point we hear from them. And the truth of it is that this defense bill and this budget has gotten not only tight, but it is underfunded in both the President's budget, and increasingly the Congress is cutting below the President's budget.

I would like just to make a few comments and particularly describe where the committee is on this now.

Mr. LOTT. Mr. President, will the distinguished chairman yield?

Mr. NUNN. Yes. I am happy to yield.

Mr. LOTT. I appreciate the chairman's comments, and I want to say here on the floor that I appreciate his consideration and his cooperation in the full committee.

The vote of 14 to 6 would never have occurred if the chairman had really put his foot down. He made it very clear that he is opposed to incremental funding. But he also, at the time, indicated that he thought that this was a way at least to keep it alive and consider it.

While always making very clear his reservations, the fact is that this was not in the President's budget request, and finding a way to fund it was very difficult. But he, as the chairman, certainly made it clear that he has a high regard for this vessel, recognized its need, but just cannot see how we can find the authorization funds at that point, as he said.

I appreciate his consideration.

Mr. NUNN. The Senator described my position very accurately. I appreciate that. I will have more to say about the ship itself in remarks that will be made.

I will say to my friends from Mississippi, while they are both on the floor, that there is probably not a single member of our committee that at one time or another has not used the argument—I do not remember the last time I used it. I certainly do not want to pretend I have not because I probably have. There are certain options going to expire, and if we do not do something quickly about that option the U.S. Government will forever lose that possibility. Usually the people who are pushing that behind the scenes are the people who have granted the option; that is, the contractors. The Government itself is perfectly willing to extend the option if the contractor is. So, really, all the contractor has to do is to extend an option.

Frankly, that applies to either side of this argument. Simply say to the Government that they will extend the option for another 6 months, and then you have that right to buy that ship.

Now, I understand the contractor's point of view. They have to get certain subcontracts lined up. They have certain costs that are involved. There is some inflation. There are those kind of considerations. But it is really not like you are forfeiting forever the opportunity to buy a vessel when an option comes close to expiring, because the contractor is the one who can extend that option if they choose to.

So I say that is another possibility.

Mr. President, let me just comment on a little background here because we have seen certain letters from the chairman of the Joint Chiefs and others justifiably from their perspective and being alarmed about the committee's action. I did not vote with the majority of the committee. But I do think that the majority of the committee proceeded in good faith. And I think they need a little defense against some of the charges and criticism that have been leveled.

I do not think anyone should be under the impression that the committee's action, the majority of the committee action, represents a position against sealift capability. The committee has approved over $2.8 billion in funding in the past several years. It was our committee, as well as the House side, that basically helped lead the way in sealift.

The appropriators in our committee, and basically Congress, led the way here. It was not the Department of Defense that led the way in the sealift. It was the Congress of the United States. So the committee has clearly seen and supports the need for sealift.

I want to emphasize that our committee, as well as the appropriations committee, got out in front of this issue several years before the Department of Defense or the Joint Chiefs or the Navy or the Army saw the need. We basically had provided for strategic sealift for 3 fiscal years before the Department of Defense was willing to recognize that it was a shortfall and include it in their own budget. Senator KENNEDY, chairman of the subcommittee, and Senator LOTT as the ranking member, have been real leaders in the overall push for sealift.

So sometimes it might be good if someone over in the Department of Defense writing those letters and submitting them might relate a little of history before they go wandering off to sort of consider them in statements that at least are not very informative about how these programs got started.

I believe the committee's action to provide two additional ships is enhancement to the Marine Corps maritime prepositioning of ship force—so-called MPS enhancement—is another case where the Congress will be ahead. I believe in General Shalikashvili's letter he emphasizes that we shift funds out of strategic sealift for both the vessel that the Senator from Mississippi is pushing, amphibious, and also MPS, and that simply is not true. That money for the MPS we found in other places: $200 million. It was strictly a shift of $600 million here between these two vessels.

So I find myself, Mr. President, in a position I am not in very much; that is, I am not in the position very often of disagreeing with the committee position. But in this case, I am not speaking for the majority of the committee, I am speaking only individually. I find that the amendment of the Senator from Louisiana and the Senator from California really has merit, and should be passed. I am aware about the misunderstanding the committee had in providing funds. I think that misunderstanding was regrettable. I do not think it was intentional on the part of anyone. The Navy simply gave wrong information, and erroneous information about when those options expire on the vessels that were taken out of the two sealift vessels, that were taken out in order to pay for this amphibious LHD–7.

I believe it was an honest mistake. But I do believe that there is an issue here that the Senator from Mississippi has already alluded to, that the Senate itself needs to focus on as they struggle with this issue. I hope we will all understand that, and that is the incremental funding issue.

I want to clearly indicate that I favor going forward with this ship. I hope we can find a way to do it. I hope we can find a way to do it responsibly. This class of amphibious ship carries helicopters, a large hospital, landing craft, and other items critical to supporting the Marine Corps in combat or in peacekeeping operations. It can operate independently of carrier battle groups. It can almost be an autonomous type of capability in certain parts of the world depending on the threat. So we need this LHD–7 to provide the needed 12 amphibious ready groups.

The committee has been concerned about amphibious for a period of time. We are working with the Navy to ensure that this program retains the required 2.5 marine expedition brigade lift capability. We are doing that to the extent that we have actually blocked the transfer of certain older amphibious vessels—at least temporarily that

were going to go to other countries and were being declared surplus—until we can determine how the Navy is going to compensate for that lack of capability even though they are older vessels. So we have been very concerned about that.

I want to say in closing my remarks why I am opposed to incremental funding.

Incremental funding is basically getting started on a ship when you do not have the money to pay for it in that particular year. The reason that is so dangerous in the case of naval vessels is because you can take $50 million or $100 million and start the vessel, and in the next year, and the year after, and the year after, you have to pay for it. We can conceivably start probably 20 or 30 new Navy ships, and there would be supporters right here for doing that. We could take several hundred million dollars and get started on enough ships so that, basically, we would eat up the whole Navy budget within 2 or 3 years. Then somebody would say: What in the world were you doing back there? Why did you do this?

Everybody views their ship as unique, and the one they are interested in as unique. The military services do, also. But for the last several years, since I have been chairman of this committee, I have opposed incremental funding. Sometimes it is done by appropriators, but I do not recall when we have done it in our committee, under my chairmanship. The House committee has started down that road this year on this particular vessel, because they have money in their budget for incremental funding, for beginning it, but not paying for it.

The reason I opposed this particular amendment in committee is because the two ships that the Senator from Louisiana and the Senator from California are talking about—the sealift vessels are fully paid for; $600 million pays for those two ships. On this amphibious ship, that same $600 million that was shifted to pay for that in the committee bill pays for only 40 percent of that vessel. That means in the next year, and the year after, we are going to have a price tag that is going to be coming due, and no matter what we may think of the priorities, we will be $400 million into this vessel. And at that stage, it becomes almost impossible to stop.

I have had people favoring aircraft carriers in the last 2 years asking that we start with $100 million to build an aircraft carrier. My answer has been that we on the committees dealing with defense can find the money to pay for it, but we cannot afford to start it. We have plagued the budget with entitlement programs that people feel they are entitled to by law, and discretionary money goes down, down, down every year. This week or next week will tell us how difficult it is to deal with anyone's entitlements. Anybody who has an entitlement feels that it is basically in the U.S. Constitution. It is not, but that is the way they view it, as part of the Bill of Rights.

We do not want to get into that situation in shipbuilding. I am not saying we do not do it in other areas. We have done it in the intelligence area. We have the intelligence budget that has had so much incremental funding that the hardware and the bills we are having to pay to meet past decisions eats up a huge portion of the intelligence budget. It can happen in the space station and in the super collider. Those are the kinds of things that sound good when you are under urgent pressures but come back to haunt not only the Congress but also the Department of Defense budget.

Incremental funding removes the discipline to properly fund programs and consider the full cost in tight budget environments. Incremental funding prevents us from basically being able to stop something once we have started it. Nobody is going to want to stop a ship we have spent $400 million on, even though a year from now we may find some other priority that is much higher. It violates the principle and central premise of good management. I think full funding, particularly on naval vessels—because they are so large and the cost is so much and you can get started with such a small amount of money in the first year—more than probably any other category, is a valid management principle in naval vessels.

If we do not have some principle of full funding, what you do is give the services incentive to basically get a foot in the door on everything. Believe me, there are people in the military services that would love to start whatever program they are in favor of with incremental funding. And you also give them incentive not to come up with a correct cost estimate, because they probably will not even be around by the time the bills become due.

Incremental funding also keeps programs alive and contentious year after year. Most of all, it locks the Congress and the defense budget into commitments made in previous years.

So I think we should not start down this slippery slope of incremental funding on naval vessels. It is interesting that the first lecture I ever got on this subject was from a Senator from Mississippi by the name of John Stennis, who believed very deeply that if we started breaching that principle, we were going to regret it. I think that is absolutely correct.

So, Mr. President, I urge support of the Johnston-Feinstein amendment. I do so with every intent to work with both Senators from Mississippi in trying to find a way to make sure we keep this program going. I do not hold out hope that it can be done easily, or this year, but I would not foreclose any option as long as it sticks with the basic principle of trying to find a responsible way to fund the vessel.

Mr. President, in this case, not speaking for the committee, only individually, I urge adoption of the Johnston-Feinstein amendment.

Mr. INOUYE. Mr. President, the amendment proposed by the Senators from California and Louisiana presents to the Senate a most difficult choice. The Senators are asking us to undo an action taken by the Armed Services Committee. They seek to restore $608 million in funding requested by the President for the sealift fund and eliminate the same amount which the committee proposes to use to fund a portion of the amphibious assault ship requested by the Marine Corps, the LHD–7.

As chairman of the Defense Appropriations Committee, sensing that we may have to face this soon, I have given this matter very careful deliberation, and I have decided to support this amendment. I urge my colleagues to join with me. Allow me to explain my reasoning and to underscore my conclusion.

Mr. President, this issue juxtaposes the interests of the Marines to the interests of the Army. The smaller post-cold-war Army is increasingly dependent on improving its sealift capacity, while the Marines are trying to ensure that they will have 12 large-deck amphibious assault ships.

Mr. President, I have to point out to my colleagues that this is the type of choice that both the Armed Services Committee and the Defense Appropriations Subcommittee are facing and will face again and again—two worthy programs, two requirements which should be filled. However, the fiscal constraints require us to choose between them.

So let us consider the merits of each case. First, the LHD–7. The Marine Corps argues that it needs 12 large-deck amphibious assault ships to project power for two major regional contingencies. The corps points out that eventually some of its aging LHA ships will need to be replaced and that the LHD is the only ship class capable of meeting this requirement. The Marine Corps points to the Bottom-Up Review, which decided to increase the size of the Marine Corps—above the base force plan—as a sign that the Defense Department has ratified its force structure.

Furthermore, the Marines argue that if Congress fails to appropriate sufficient funds to purchase the LHD–7 this year, the Government will lose a price contract option. Under the Navy's plan, the LHD–7 would not be funded until the year 2000. The Marines and Navy both agree that the cost of waiting until then to purchase the ship will drive the cost up substantially, perhaps as much as 33 percent.

Last year, at the initiative of the Appropriations Committee, the Congress appropriated $50 million to initiate advanced funding for the LHD–7. The conferees of the defense appropriations bill noted that they expected the Navy to request funds in fiscal year 1995 for the balance of the ship before the Navy obligated the $50 million appropriated.

However, instead of requesting the additional funds, the Navy sought to rescind $50 million from this appropriations, and, Mr. President, as you know, we denied that request.

The Defense Department reviewed this issue in its fiscal year 1995 budget and determined that it could not afford to purchase the LHD–7 in fiscal year 1995. It argues that 11 large deck carriers fulfill 96 percent of the forward presence requirements of the Navy and Marine Corps. It also notes that the first LHA ship will not need to be retired until the year 2011, and therefore the Department recommends that the Navy and Marines wait until the turn of the century to build the LHD–7.

Mr. President, on sealift, I believe there is not much disagreement. If Desert Storm proved one point, it was that sealift is essential for U.S. forces. The only equipment that reached the theater in any sizable amount in the early days of the crisis was from equipment prepositioned on ships. It took 4 months to move all the remaining equipment needed into theater, primarily because there was insufficient sealift to respond more quickly. We were lucky, very lucky, that we had time to respond. But we also learned that the next time we might not be so lucky and we need to improve our sealift capability and we need to do it now.

Mr. President, it is ironic that Congress, before Desert Shield, had already recognized the problem and had created a sealift program to bolster our capability. I might add this congressional initiative, which the media would probably refer to as pork barrel, was designed to redress the growing shortfall and our program was initially opposed by DOD. However, after Desert Storm, DOD recognized the need and the Defense Department has embraced the program since that time.

The fiscal year 1995 budget requests $608.6 million to continue the sealift program. Of this amount $546.4 million is to acquire additional sealift ships. I must say that I believe this is one of the most critical needs of all of DOD.

Why then did the Armed Services Committee delete the funds for the program? In fairness to the proponents of the LHD and those members in the committee who voted to cut sealift and add funds for the LHD, may I respectfully suggest that it appears that they were misinformed.

Sources within the Navy had misinterpreted the contractual requirements for the Navy sealift program. They believed that the contract options for the next sealift ships could be delayed until December 1995. Had that been the case, the Navy could have used fiscal year 1996 funds to award that contract and could have used the 1995 funds for other purposes—in this case, the incremental payment for the LHD–7. After the committee action, the Congress was informed that the initial information was incorrect. The contract options on the sealift ships cannot be delayed until December 1995. A new contract would be required if funds were delayed until 1996, with higher costs most likely.

More importantly, the delayed award would mean a longer time until the needed ships became available. Mr. President, most respectfully, we cannot afford to wait. We need to press on with sealift now.

Mr. President, I realize this is a tough choice to make between meeting the goal of the Marines or the need of the Army. If additional funds were available, I believe the Department would like to do both. Unfortunately, that is not the case. We are functioning under strict fiscal constraints and additional funds are not available.

I concur completely with my friend from Mississippi when he says that we have cut too deeply and too fast. Having served in the great war 50 years ago, and having seen my Nation's Armed Forces dwindle down to almost nothing before June 25, 1950, when we had to send men into Korea untrained and unequipped and then suffering 10,000 casualties that were not necessary, I do not wish to see a repeat. But we are faced at this moment with decisionmaking time.

I must add one other technical concern that I have with the committee's position. As the Senator from Louisiana and the Senator from California have pointed out, the $600 million that has been set aside for the LHD is not sufficient for the Navy to award a contract for that ship. As everyone agrees, the LHD–7 is expected to cost about $1.3 billion or $1.4 billion. The committee position argues that we could fund the ship incrementally. As the chairman of the Armed Services Committee stated, I too would like to state that I oppose this incremental payment plan. The Congress has steadfastly argued that ships, because of their high cost and limited total numbers purchased, should be fully funded.

Yes, Congress did on one other occasion in the recent past allow for incremental financing to be used, but it was only with the understanding that the Navy would fully fund the balance of the ship in the next year.

Mr. President, we know that DOD does not plan to budget for the balance of the ship next year. The 1996 budget is already underfunded by $6 billion. This committee recommendation will only worsen that situation.

The Navy cannot award a contract for the ship unless it has the full $1.3 billion or $1.4 billion, or sufficient funds to cover its termination costs. The Navy would have to demonstrate that it intends to fund the ship before it proceeds with obligating the funds. Since it is very unlikely to do so, these funds could not be used.

Mr. President, as I said at the outset, this is a most difficult choice for us, but I believe the evidence lies in favor of supporting sealift and delaying the LHD for another time.

If I may at this juncture, as chairman of the Defense Appropriations Subcommittee, I will do my best, as I have done in the past, to look for sufficient funds at least for long lead time, and I can assure my colleagues and my beloved colleagues from Mississippi that the LLD will not be forgotten. This is the word that I give to my good friends. But at this juncture in this debate, I would have to urge my colleagues to support the amendment submitted by my dear friend from California and my colleague from Louisiana.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Alaska.

Mr. STEVENS. Mr. President, I have come to the same conclusion as the Senator from Hawaii has. On the other hand, I support overwhelmingly the LHD–7.

I thought about this last evening, and I am here to suggest to the Senate that there is a way to do both. We do need to make certain we do not lose the fast sealift that is under contract now. It is absolutely essential to our defense, but we also need to find the money to assure that this LHD–7, which we provided long lead time money for, does meet its construction schedule.

I think the money is there. I am glad to see that the chairman of the committee is here. He is my good friend. He may disagree with me. But I think we need to make a structural change in an authorization bill to at least just literally take the money that is necessary from another area and commit it now to the LHD–7. As the Senator from Hawaii said, we can achieve that.

The area that I would take the money from is the area of the FFRDC activities. Those have already been reduced slightly by the Armed Services Committee, but I propose that they be reduced by 10 percent more, really. I propose a total reduction in the FFRDC in the level of about 19 percent. It would take $250 million from the $1.3 billion requested for these federally funded research and development centers.

I know that there will be a large scream heard around the world when I suggest that. But I believe that we are dealing with industrial base here as well as we do when we deal with things like the *Seawolf*. This LHD–7 is part of the national shipbuilding industrial

base, and we need to send a signal that it will be continued, too. I think we can send that by reducing the amount that is committed to the federally funded research and development centers.

Those centers have played an interesting and valuable role during the period of the buildup of our forces and during the period of the expansion of our industrial base. Now that we have reduced our industrial base—as a matter of fact, we are reducing it too fast in many places—we do not have the luxury of continuing the federally funded research and development centers at the level proposed in the bill.

I am not critical of the Armed Services Committee—as a matter of fact, they are below the budget request—nor am I critical of the administration for requesting that amount. But there is no question now that we can reduce the amount that is committed to these federally funded research and development centers.

We had a period of time when our procurement reached a peak really, in about 1987, for defense of about $120 billion. Now we are going to be spending about $44 billion in procurement in 1995. That is a 60-percent cut over an 8-year period.

The federally funded research and development centers have had a very slight cut compared to the amount we are committing for procurement. From my point of view, I think we need to find a way to reduce these amounts.

I am going to have another amendment later to deal with the FFRDC's in terms of the compensation. I might say, I call attention of the Senate to a recent report in Science and Government, an independent publication that lists the salaries paid by these FFRDC's to the people who are working in terms of this type of analysis. Most of them are, in fact, retired from either the defense industry or from Government in general or from other industries. They are senior people who have a great deal to add to the review of our defense concept. But there is no reason for the kind of compensation that is being involved in those activities, particularly for people who I believe already are very adequately compensated in terms of their retirement years.

But that is just a sideline to this. What I am really saying to the Senate is, why should we argue, those of us who believe in a strong defense, why should we argue over whether we complete the contracts on the fast sealift or whether we put money to the LHD-7? We need both. I do not think there is anyone that has really reviewed the defense structure who would say we do not need both.

The LHD-7, I understand, has an initial operating capacity at about 1999 or 2000. The amendment I suggest will adequately fund that, because it would be structural, it would be taking out of the budget from now until that time about $1.2 billion to $1.3 billion. It would announce right now that we are not going to exceed that level during the coming period for FFRDC's.

Again, I say to the Senate to consider this. I do not know whether to offer this amendment right now or let the people react to it. But it does seem to me that, when we have reduced procurement by 60 percent, we should not be continuing at the 90 percent level of paying people to review the procurement policies. It is to me wrong to commit that kind of money. I think it is time now for us to make the decision that we should take money from these review organizations and from the think tanks and put it into steel, put it where it will be needed to aid our country in terms of our new concepts of trying to have the ability to have a mobile force, mobile but more modern, and I think LHD-7 is essential to that.

I do agree with the chairman of the committee, we cannot afford to cancel this fast sealift contract. My hope is we actually work this out before we are through and have an amendment that not only commits ourselves to the fast sealift, which is the intent, as I understand it, of the pending amendment, but commits ourselves equally to the LHD-7 and funds it now.

We can fund it now. There is no question that the money would be there if we just take the actions necessary to reduce another portion of this budget proportionally—not even proportionally; it would be one-third of the amount that the procurement has been reduced.

I believe that the FFRDC account is an excessive amount, and I am hopeful the Senate will consider reducing that and committing that to the LHD-7 and the fast sealift according to the current contract. We can do both within the budget, within the amount recommended by the committee and within the ceiling established by the President's budget and not be inconsistent with the Bottom-Up Review. It is something that could be done right here and now. We really do not need to argue as to which system should go forward now. We need both.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me first thank my distinguished colleague from Alaska for his strong argument in favor of moving forward with both of these programs. It is consistent with the findings of the Armed Services Committee in their report. It is consistent with the strong arguments that have been made earlier today by my State colleague Senator LOTT, who points out the reason why the issue was raised in the first place in the authorization committee.

I want to just read a portion of the committee report to confirm the fact that this committee has reviewed these programs and has come down strongly in favor of both of them. It starts out by discussing the fact that in written reports and testimony before their committee—Senator LOTT talked about questions and answers he elicited from various witnesses who appeared before the committee on this subject—that the Navy has indicated it is immensely important to the fulfillment of commitments and to the Navy's future that this LHD-7 be built. There is an option to build the ship that is available now, and it must be exercised by the end of December of this year.

I am going to read now from page 34 of the committee report:

> In written reports and testimony at committee hearings, a series of senior military leaders, including the Vice Chairman of the Joint Chiefs of Staff, the Commander-in-Chief of the U.S. Central Command, the Chief of Naval Operations, and the Commandant of the Marine Corps, have confirmed the strong military requirement for LHD-7 as the anchor for a twelfth amphibious ready group.

Now, even though the chairman of the committee, in his statements about this amendment, has indicated some reluctance to try to go forward with both programs at this time under the funding constraints, the committee which he chairs has come down very strongly in favor of doing just that.

It further provides on the same page:

> Assuming appropriations of the necessary funds, the committee authorizes LHD-7 with the understanding that the Navy will exercise its contract option for LHD-7 before the option expires, and include the residual increment of funding for the ship in its fiscal year 1996 budget.

The Senate should support that. That is a clear, unequivocal commitment. And based on the evidence before the committee, through its hearings and through discussion and markup, this is what the committee decided.

They have come to the floor with this bill and with this report, and now, if what I am hearing is correct—and maybe I misunderstood some statements—they are backing away from it.

They are backing away from the commitment that is spelled out in as unambiguous a statement as I have ever read in any committee report before this Senate. Let us help the authorization committee fulfill its commitment and its desires as expressed in its report and in its bill.

I am quick to add that I am just as supportive of the sealift program as any Senator in this Senate. At every opportunity since I have been on the Defense Appropriations Subcommittee, I have questioned witnesses before our subcommittee about that program, have urged that additional funds be made available for that program, and have in every way possible supported full funding of the effort to do what we have to do to be able to transport men, material, and equipment to places

where our military should be when our national security interests are threatened.

So there is no question about needing the sealift money, the $600 million. We thought it would not be needed this year. Senator LOTT spelled out in his remarks why that suggestion for deferment of the exercise of options should be put into next year's bill—because the Navy said that the option did not expire until next year. Now we find out the Navy misspoke or they were mistaken in that assumption.

Let me just simply add my concerns to those expressed by Senator STEVENS. There has to be a way to do this, and that is the point here. Whether we agree to accept this amendment or accept it in some modified form is really beside the point. The point is, we need to proceed with both programs, and we need to figure out a way to do that. And before we vote on this amendment, we need to reach that agreement.

We have other things happening right now. For example, the Appropriations Committee is meeting in full committee to mark up the appropriations bills—for the Department of Agriculture, for the Department of Energy, for the Corps of Engineers—for next year. I need to be at that meeting, so I am going to leave the floor for a little while. But I certainly hope the Senate will not act on this amendment until we "come reason together," as a former majority leader of the Senate would say, and decide how we are going to proceed to build both LHD–7 and the sealift ships that are provided for in this bill.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. MITCHELL. Mr. President, on rollcall vote No. 158 yesterday, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside and we move to the Feingold amendment, the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. Do I hear objection? The Chair hears none, and the amendment is laid aside. The Senator from Wisconsin is recognized.

AMENDMENT NO. 1841

(Purpose: To delay procurement of the CVN–76 aircraft carrier)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. SIMON, Mr. HARKIN, Mr. BUMPERS, Mr. SASSER, and Mr. WELLSTONE, proposes an amendment numbered 1841.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. CVN–76 AIRCRAFT CARRIER PROGRAM.

No contract (including a contract for advance procurement of long lead items) may be entered into for procurement of a CVN–76 aircraft carrier on or after the date of the enactment of this Act and before October 1, 1999. Any such contract (other than a contract for procurement of long lead items) that has been entered into before the date of the enactment of this Act shall be terminated.

Mr. FEINGOLD. I thank the Chair. I thank the chairman of the committee for his courtesy in working with me to arrive at a time to bring up this amendment.

I offer this amendment on behalf of myself, Senators SASSER, SIMON, BUMPERS, HARKIN, and WELLSTONE. I rise again today to oppose the procurement of the Navy's CVN–76 nuclear aircraft carrier. Our amendment prohibits the expenditure of additional funds on the CVN–76 aircraft carrier until after fiscal year 1999 and, by implication, what this amendment does is assumes that our carrier force will be reduced from its current level of 12 to 11 carriers.

This amendment will reduce spending in this bill in this coming year by a total of $3.6 billion. This amendment alone will reduce this authorization bill by $3.6 billion.

Mr. President, the CVN–76 is the largest single military procurement reported out by the Armed Services Committee this year. Obviously, the question with this amendment is, should we do this? Should we go forward with it? I think it is time we face some hard facts. We simply do not have the resources to continue large program procurements indefinitely without having, out on this Senate floor, a serious and open debate on their value in the post-cold-war world.

The often cited statistics that our defense expenditures have fallen consistently since the 1980's are true, but they tell only half of the story. That is because, Mr. President, we won the cold war. We are in a new era. It is an era that is, of course, dangerous in its own right, but it is in many ways profoundly less dangerous than was the cold war era.

We should be able to expect defense expenditures to decline accordingly while the Pentagon adapts to the new threats of the post-cold-war era.

As my colleague from Iowa, Senator HARKIN, has pointed out, this bill proposes to spend more on defense than all other major military powers combined and four times the amount of all potential adversaries combined, including Russia and China.

Now, I do not think we need to tell anyone in this body that $3.6 billion is real money even for the Federal Government, particularly as we face threatening Federal deficits. We, in Congress, should be held responsible for allocating that money wisely to combat any threats to our national security. And, of course, our national security does include protection from external military threats.

Mr. President, it also includes threats to our economic health and well-being. It also includes, in my mind—

Mr. NUNN. Will the Senator from Wisconsin yield for a brief question?

Mr. FEINGOLD. I will yield.

Mr. NUNN. What I would like to propose is 45 minutes on each side on this amendment. I understand that has been generally acceptable to the Senator from Wisconsin.

Mr. FEINGOLD. That is acceptable.

Mr. NUNN. And I understand it is acceptable to the minority—90 minutes equally divided.

Mr. President, I ask unanimous consent that there be 90 minutes equally divided for debate on Senator FEINGOLD's amendment with the time equally divided and controlled in the usual form, with no amendment in order thereto or to any language which may be stricken; that when the time is used or yielded back, the Senate, without intervening action, vote on or in relation to the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. Do I hear objection?

Mr. LOTT. Reserving the right to object, Mr. President, and I do not intend to do so, I would like an opportunity to review the unanimous consent request.

Mr. President, in the absence of the ranking member, who is attending a hearing that the Armed Services Committee is having at this time on Bosnia, it is my understanding that this is an acceptable unanimous-consent request, and I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair and the ranking member for working out the time agreement.

Let me just return to my initial point. That is, of course, that national security includes external threats, but it also includes our own economic well-being in this country. And for me and for all the Members of this body, it has to include things like the ability to walk safely in the streets of Milwaukee, WI, without the fear of murder or assault.

Mr. President, $3.6 billion could cover so many causes which also need funding. It could be used to increase the DoD's readiness account, which many feel is underfunded; for less than $1 billion we could cover our arrearages at the United Nations; for $45 million a year, it is estimated we could provide the disability payments to those veterans who are afflicted with Persian Gulf war syndrome, an issue that I know the Armed Services Committee is addressing. For just $413 million, Mr. President, of this $3.6 billion, we could endow the Byrne Grant Memorial Fund to send State and local law enforcement agencies to assist in antidrug operations and for prevention programs such as D.A.R.E., a drug awareness program for youth; $3.6 billion could fund the Ryan White AIDS fund, research on Alzheimer's, combating cryptosporidium, which is a parasite that has invaded our water supplies in our State of Wisconsin and Milwaukee. And yet that amount is still only one-fiftieth of the amount we are wasting on paying the interest on the Federal debt this year.

Mr. President, we must carefully consider whether all of these causes are less of a priority than building a 12th carrier in the post-cold-war era.

This is the central question today. If we believe that a strong defense is essential for our country, and I do; if we believe that the Navy is an essential element in that defense, and I do; if we believe that this country deserves a strong shipbuilding industry, and I do; then when is the best time to build the next nuclear super carrier—not whether we will build one, but what is the best time? Some say it must be built in fiscal year 1995, claiming that delays in its construction will weaken the national defense and threaten the shipbuilding industry. But I do not agree with that.

Of course, there are some of my colleagues who oppose other excesses in this bill who may still want to support the CVN–76. After all, they can say that the President of the United States made it very clear in the State of the Union that he supported no more defense cuts, and he got a standing ovation. I did not join in that ovation, but certainly there were many who agreed.

Mr. President, I came to this body last year with a strong personal conviction that is really very simple. If the Government does not need to spend money on some project, then it should not spend the money. We cannot afford it, with a $4.5 trillion debt, that was $4.59190805316 trillion as of last Friday, as we find out in the Chamber; every day we are in session we get the new report.

Consequently, Mr. President, I do not believe that there can ever be a magic number, a dollar total etched in stone that shields any department or agency budget from the careful scrutiny of Congress. That is why I opposed firewalls in the budget debate and why I, frankly, believe that President Clinton was wrong to say "no more defense cuts" in his State of the Union Address.

In that same vein, I am reminded of the views expressed by my colleague from Nebraska, Senator EXON, during our debate on defense firewalls in the budget resolution. He claimed that they would undercut the role of the authorizers and appropriators in this body. I would extend that Exon argument to conclude that this doctrine of no more defense cuts will undercut the entire congressional role in budgeting. It will impair our constitutional efforts to provide for a defense befitting our available resources, as well as all threats, foreign and domestic.

So, Mr. President, today many say that we must build that CVN–76 and that we have to do it in fiscal year 1995. But I am not convinced that the case has been made strongly enough to warrant a huge $3.6 billion expenditure next year, in order to sustain a 12-carrier force, when it is very arguable that there are other more pressing demands on our very thin budget.

Does this make me or the proponents of this proposal any less committed to national security? Certainly not. Nobody opposes the strongest defense America can afford. Nobody opposes strengthening our forces to gird against any kind of attack, and nobody supports exposing our troops to unnecessary threats or leaving them anything less than being fully prepared for any kind of conflict. Rather, these kinds of debates ask and should turn on how to define national security. How do we balance all the demand and priorities our Nation faces each year, and how do we best reach what are really our similar goals?

Mr. President, the key to this is that less than a year ago, the then Secretary of Defense Les Aspin released the results of a comprehensive review of post-cold-war military requirements to ensure the security of the Nation.

That so-called Bottom-Up Review assumed that the United States might be faced with the requirement to fight two nearly simultaneous major regional conflicts or MRC's. And the assumption was that they would be fought without the help of our allies, although we had to have the help of our allies on many occasions. This whole report and analysis is based on the notion of the two MRC's without the help of allies.

To quote from page 51 of that report.

* * * the analysis confirmed that a force of 10 carriers would be adequate to fight two nearly simultaneous MRC's. That assessment was based on many factors, from potential sortie generation capability and arrival periods on station to the interdependence of carrier-based aviation and its criticality if land-based air elements are delayed in arriving in the theater.

The Bottom-Up Review also states that, according to a different rationale, 12 carriers are needed—not 10 but 12—to maintain a peacetime presence in the Mediterranean Sea, the Indian Ocean, and the Western Pacific. Even the Armed Services Committee this year criticized the Navy for dragging its feet on a mandated study of alternatives for providing this peacetime presence since we do not have information, although it should have been provided to the committee.

But for the moment, let us focus on the number of 12 carriers as the Pentagon's requirement for peacetime operations.

Repeating again, the Bottom-Up Review itself said that 10 was sufficient for two simultaneous MRC's without allies.

Mr. President, the Navy will begin fiscal year 1995 with a force of 12 carriers: 5 conventionally powered and 7 powered with nuclear reactors. The Navy plans to retire two of its conventional carriers before the year 2000. Two nuclear carriers, the *Stennis* and the *United States*, are currently under construction, and will both be in operation by 2000. Now, to replace the *Kitty Hawk*, which will be retired by 2003,the Navy wants to begin building an additional nuclear-powered, *Nimitz*-class carrier, called CVN–76, next year. My amendment will terminate plans to procure the CVN–76 next year, and would, in effect, delay procurement of the next carrier until fiscal year 2000, when the Navy plans to procure still another nuclear carrier.

The authors of the Bottom-Up Review considered options which closely parallel the provisions of my amendment. They recognized that delaying CVN–76 procurement until fiscal year 2000 would produce significant savings in the near term. Yet they rejected postponing procurement of the CVN-76 because of the excessive costs of building carriers frequently enough after

fiscal year 2000 to sustain a 12-carrier force. They appropriately called these excessive costs a procurement "bow wave." I agree, if we keep 12 carriers, that this bow wave could be excessive; it is also unnecessary. Under the provisions of my amendment, I would expect that the carrier force would drop from 12 to 11 in the year 2003 when the U.S.S. *Kitty Hawk* is retired.

Mr. President, my amendment would provide a carrier-force level equal to the 12 requested by the Pentagon for peacetime through the remainder of this century and 11 thereafter while saving $3.6 billion in fiscal year 1995. This amendment is a very moderate proposal which respects the Pentagon's own analysis of national security needs. Many outside experts challenge the 12-carrier requirement in today's post-cold-war world; after all, we had 12 carriers for much of the cold war and even through World War II. Alternative analyses from independent authorities like the Defense Budget Project, the Rand Corp., and the Brookings Institution conclude that post-cold-war requirements range between 6 and 10 carriers—not 11 and not 12. The Rand study, for instance, determined that 4 to 5 carriers would be needed for each of the two MRC's for a total of 8 to 10 carriers. The Brookings study considered three alternative scenarios to the Bush-Cheney baseline scenario for which the Cheney Pentagon claimed it needed 12 carriers. One Brookings scenario posited the emergence of a post-Soviet Russia which, in retrospect, was overly optimistic. Another Brookings scenario posited the existence of a strong post-cold war arms control environment in which advanced weapons technologies would be tightly controlled. Under both of these scenarios, the authors of the study determined that six carriers would be sufficient. The third Brookings scenario assumed the evolution of a reformed Pentagon culture and an enlightened understanding of the role of moral authority, diplomatic skills, and economic assets alongside military assets. It also provided a larger measure of active-duty ground forces and air forces to ensure favorable MRC outcomes and to permit rotation and reinforcement of deployed forces. Under that scenario, the authors determined that nine carriers were needed. Mr. President, my colleagues need not embrace any of these alternative assessments in order to support my amendment because my amendment permits a carrier-force level which exceeds all of these alternatives even after the year 2003. We would go from 12 to 11 carriers.

The question here today is whether a 12th supercarrier after 2003 is worth $3.6 billion in the fiscal year 1995 budget. What exactly do we get for our $3.6 billion investment in a twelfth supercarrier?

I have found the answers to those questions pretty hard to pin down. Let us begin with some hidden additional costs that we will know will happen if we build this 12th supercarrier. We know from the GAO analysis that we will get an additional bill each year after that supercarrier is in operation for about $1 billion; $1 billion per year as the operating costs for a 12th carrier battle group.

The story that many CVN–76 supporters would prefer we ignore in this debate is that along with the procurement of CVN–76 goes substantial operating costs as well as procurement costs not just for the CVN–76 itself but also for the aircraft in its airwing and the ships that have to escort this powerful and very valuable warship. And make no mistake about it, Mr. President, CVN–76 is a very powerful warship which would be coveted by any military commander in the world. By the way, which of the navies of the world have carriers on a par with U.S. supercarriers? Certainly there must be some potential opponent out there that shares our thirst for supercarriers and can threaten us. The answer, Mr. President, is none, no one. No country has that. There is no ship in the history of the world that has the kind of power of the U.S. supercarrier and, even without CVN–76, we will have 11 supercarriers.

CVN–76's power comes from its airwing, the dozens of aircraft which make up the supercarrier's central mission—the projection of airpower. Buying yet another supercarrier will get us more airpower but let us be specific, Mr. President. Spending $3.6 billion on CVN–76 will provide approximately only 60-days per year during which a supercarrier will be operating in the world's critical ocean areas. Sixty additional peacetime days during which naval aircraft would be immediately available in case of the sudden and unexpected outbreak of hostilities. Without the CVN–76, its supporters would like to paint a picture of oceans devoid of Navy ships and an Oval Office photograph of the President powerless to respond to the aggression of dictators around the world.

It is time to replace that imagery of a world without CVN–76 with some facts. By 2003, the Navy will have not only 11 supercarriers but 11 other aircraft carriers as well. These additional 11 carriers are specialized for marine operations and described in Navy literature as multipurpose amphibious assault ships, capable of operating helicopters and aircraft like the Harrier, a light attack aircraft. These additional 11 carriers are not supercarriers; they are much smaller but they are as capable as any foreign aircraft carriers. According to the Center for Naval Analyses, advanced aircraft technologies soon will permit similar smaller carriers to generate as many long-range aircraft sorties as CVN–76 and twice as many shorter range sorties as CVN–76—twice as many sorties.

These important concepts foretell powerful and more economical ways to deploy 21st century naval airpower but they are not in the images that today's CVN–76 supporters paint. Indeed, we would do better to spend at least part of the $3.6 billion in researching and developing more appropriate vehicles for the future than countering today's threats with excess supercarriers.

CVN–76 supporters also seem not to mention—and maybe even ignore—other powerful ships which the Navy has described as suitable to operate jointly or independently as flagships of maritime action groups which would and can provide long-range antisurface and strike capabilities. In 2003, the Navy will have over 20 Aegis cruisers and even more Aegis DDG–51 destroyers. The Navy proudly reminds us that during Desert Storm, Aegis cruisers fired 105 Tomahawk cruise missiles at Iraqi land targets, controlled tens of thousands of aircraft sorties, and even detected and tracked Iraqi Scud missiles. Soon, we are told, these cruisers will have a theater ballistic missile defense capability. Yet somehow they are off the books when we consider ships to patrol peacetime waters for several weeks each year in order to fill the relatively minor gap created not to go forward with building the CVN–76 and decide to live with 11 rather than 12 carriers.

So let us not be coaxed into believing that the nuclear supercarrier is the only response to every crisis in today's world. When we look at the danger of reducing our supercarrier force from 12 to 11 in 2003, to say that we must respond to every crisis with a supercarrier is to ignore our entire true record of the post-World War II experience. In 1978, for instance, Barry Blechman and Stephen Kaplan of Brookings found that during the first three decades of the cold war, when effective crisis management was paramount to nuclear deterrence, that the Navy responded to 177 crisis. Of these responses, carriers were involved in only about 60 percent of the crises. A 1991 study by the Center for Naval Analyses revisited the same question but in more detail. They found that between 1946 and 1990 Navy responded to 207 crises in which carriers were involved only 68 percent of the time.

Let us look at the other 32 percent of the cases—the one out of three cases in which a supercarrier was not needed and often was not even the best-suited ship to the mission at hand. During Desert Storm, for instance, there were six supercarriers involved. Yet, the first naval strikes were not aircraft but cruise missiles launched from the battleship U.S.S. *Wisconsin*. Even after the end of the war, the later strikes on Iraq were cruise missile strikes, presumably because the mission did not justify risking the lives of American pilots. Another example was the daring rescue

of United States and Soviet diplomats from Somalia in January 1991, coincidentally during the buildup for Desert Storm. The marines were inserted by specialized helicopters from the U.S.S. *Trenton*, an amphibious ship, in spite of the fact that the region was bristling with supercarrier activity. Once again, the supercarrier was not the right ship for the mission. An amphibious ship was simply better suited to this operation than a mammoth supercarrier.

Mr. President, the military utility of replacing the U.S.S. *Kitty Hawk* with CVN–76 is not worth $3.6 billion. But there is another image which CVN–76 supporters paint as well and it has to do with preserving the shipbuilding industry. I recently received a strong and thoughtful letter from a consortium of nine Wisconsin companies who are vendors to the shipyard which builds our supercarriers, the Newport News Division of Tenneco. The Wisconsin consortium expressed what they called their profound disappointment on learning that I was opposed to the CVN–76 this year. I appreciate their views on this matter and understand the special sensitivity that changes from Washington can further threaten Wisconsin shipbuilders and suppliers.

Since 1981, Wisconsin shipbuilding has not been a growth industry. In spite of the Navy buildup we have seen severe impacts on many suppliers, and the demise of one of our three shipyards, Bay Shipbuilding in Door County. Door County alone has experienced some of the highest unemployment rates in Wisconsin because of the loss of Bay Shipbuilding. Furthermore, one of the two remaining Wisconsin shipyards is also in Door County, where projected labor force decline accounts for 5 percent of that county's entire work force. So I am not insensitive to the shipbuilding industrial base argument.

However, Mr. President, I would like to use the words from this letter to set the dire image portrayed by CVN–76 proponents.

> Any delay in funding would lead to the deterioration of the nuclear-shipbuilding industrial base. The labor force required for the construction of the carrier is both highly specialized and highly skilled. If funding for the carrier is delayed, this quality, specialized labor force will be dispersed, making it difficult if not impossible to reconstitute for future, high-technology shipbuilding programs.

Mr. President, let us assume for the moment that the assessments in the letter about the specific impacts on Wisconsin business are substantially accurate. I must say, however, that to conclude that the production of CVN–76 this year will alleviate these pressures misses perhaps the most important problem we face. The fact is that America's shipbuilding industry is gravely ill. So ill, in fact, that remedies like building another supercarrier are likely to be insufficient and, based upon past experience, might even do more harm than good to the industry.

The American shipbuilding industry has struggled since the end of World War II. By the late 1970's, the industry was so uncompetitive in the world market that it received Government price subsidies approaching 50 percent of the U.S. ship construction sold overseas. President Reagan stopped those subsidies in 1981 but offered his naval buildup as an alternative market. That was an attractive temporary fix for the 1980's but did little to help the American industry adapt to the world market. Meanwhile Germany, Japan, and Korea have set the pace in international shipbuilding. Now the cold war is over. The Navy shipbuilding boom market of the 1980's is now a bear market. Did that Navy business make America's shipbuilding industry more competitive? Apparently not.

Today this industry is in such bad shape that, even with CVN–76 construction, the Pentagon recently forecasted that several shipyards may be on the verge of failing over the next 5 years. In other words, without strong actions by the private as well as public sectors, the industry's only option will be to restructure and contract in response to reduced Navy business. Under those conditions, building CVN–76 in fiscal year 1995 is like rearranging the deck chairs on the *Titanic*. We need, instead, to have a concerted effort that rationally and aggressively intervenes with a wide range of remedies. Unfortunately, the Pentagon is giving us more confusion that coherence; more smoke than light.

For instance, the Navy says that a delay in CVN–76 procurement would risk the loss of specialized shipyard skills along with critical vendors. Yet the GAO recently testified before the House Armed Services Committee that:

> DOD and the Navy have not provided information needed to judge the overall cost/benefit implications of moving to nuclear shipyard consolidation. DOD has not identified which critical vendors and which skills would be lost, the cost of reconstituting those vendors and skills, or alternative ways of preserving them. Without these industrial base assessments it is difficult to determine the optimum approach to achieve the Navy's force and modernization objectives in the most cost-effective manner.
>
> We do not know what the impact of not building the CVN–76 would be on critical vendors. There is not even a consensus within the Department of the Navy as to how you define critical vendors.

The Bottom-Up Review claimed that the loss of specialized shipyard skills could be reconstituted. Last fall, they speculated that a delay to the year 2000 would cost $2.1 billion to recoup. Last spring, a Navy shipbuilding expert privately admitted to my staff, though, that the number was more like $1.5 billion. Last month, Tenneco lobbyists claimed the cost was $400 to $500 million for a 1-year dalay—yet this week some proponents of the CVN–76 are talking about an estimate of $300 million to delay CVN–76 to the year 2000—assuming that the force remains locked at 12. Suffice it to say, Mr. President, that the Pentagon is still searching for a serious assessment of the industrial base impact of delaying the procurement of CVN–76. Meanwhile, by simply pushing for the procurement of CVN–76 this year, the Navy shirks the gravity of the underlying industrial situation and prescribes a remedy which is too expensive and may not actually help.

There are, however, many options which are cheaper and more promising than doling out a $3.6 billion jobs bill to Newport News. There is even cause for some cautious optimism about these options. To begin with, Mr. President, this is a defense conversion problem that is more promising than many we face in other American industries.

There is a booming international commercial market of between 13,600 and 17,800 ship orders in the 10-year period ending in 2001. Last year, President Clinton seized the moment by inaugurating the first comprehensive national plan for strengthening America's shipyards. His program seeks to end foreign subsidies, eliminate unnecessary domestic regulations, provide loan guarantees for overseas orders, assist in international marketing, and improve shipyard competitiveness through a program called Maritech. Newport News is an aggressive participant in this program. They were recently awarded a substantial contract to transform their operation into a world-class commercial shipbuilder by 1996. This is a very promising step and the overseas markets have taken notice. The Greek shipping firm, Eletson, has announced intentions to buy up to four Double Eagle tankers contingent upon successful modernization at Newport News. There is also talk at Newport News of some promising leads on other international military orders.

The Eletson-Newport News deal is very promising but not enough. Commercial business alone or along with CVN–76 will not redeem the situation. The nuclear shipbuilding industry probably will not survive without restructuring in order to adapt to the reduced Navy demand for nuclear ships. The Pentagon's own analysis in the Bottom-Up Review concluded that a consolidation into one facility at Newport News would save about $1.8 billion through the end of the decade and would permit the delay of CVN–76 construction. So if we need to restructure to survive and restructuring permits us to do without CVN–76, then why are we being asked to build CVN–76 in fiscal year 1995. The most obvious step, instead, is to immediately consolidate nuclear shipbuilding operations which currently take place in two separate and each underutilized shipyards. Yet the Bottom-Up Review and the Armed

Services Committee avoid recommending that option. Consequently we will probably be asked this week to vote on *Seawolf* construction at one shipyard and then to vote on CVN–76 construction at the other shipyard as if the two issues were not part of the same underlying problem. Let me restate this critical point. Consolidation alone could solve the nuclear shipbuilding problem according to the Bottom-Up Review at substantial savings in the billions yet we are asked instead to buy CVN–76 in fiscal year 1995 and a third *Seawolf* in fiscal year 1996 in order to preserve our nuclear shipbuilding industrial base.

Furthermore, even without consolidation, there are other options which will at least mitigate the impact of delays to CVN–76 construction. To begin with, Mr. President, let me remind my colleagues that there are more than two shipyards involved in the critical Navy shipbuilding industrial base. The Pentagon counts a total of 16 facilities: 12 private shipyards which do construction and repairs and 4 public Navy yards which do repairs. The Pentagon lists a total of 97 new construction orders currently on the books. Newport News is unquestionably the largest and most diversified shipyard in America. Again, I would remind my colleagues that the authors of the Bottom-Up Review believe that Newport News could survive, even if the CVN–76 were delayed, if all future carrier and submarine construction were consolidated there. But even if that were not the case, then let the other Navy orders for construction and overhauls be optimally allocated according to our total national security needs including the welfare of our shipbuilding industry and its supplier base. We need a thorough and rational review of these industrial base questions rather than simply continuing to build ships that we do not need at prices that we cannot afford.

In conclusion, Mr. President, we do not need a 12th supercarrier. We do not need to buy CVN–76 next year. The shipbuilding industry is so gravely ill that another carrier may not be enough to save it without the consolidation of nuclear shipyards—a move which would make CVN–76 unnecessary for industry survival.

I have outlined three sources of relief to offset the impact of not building CVN–76, Mr. President. Let me summarize them in order to help clarify a very complex problem. First, we need to step out of the way of the private sector and do what we can to foster the prompt consolidation of the nuclear shipbuilding industry. The BUR claims this alone would mitigate the impact of a CVN–76 delay.

Second, we need to set up a BRAC-style process for the reallocation of Navy work among private and public yards nationwide in a manner that best serves America's economic security—the foundation of our national security. Finally, we need to continue strong support for defense conversion projects like Maritech, including the ongoing work at Newport News to become a class-commercial shipyard by 1996 in order to compete in today's booming international commercial market. Otherwise, to quote one shipbuilding executive, "We are just prolonging the misery."

This is a hard fact of the end of any war—even a cold one. I was recently in Angola, a country locked in 17 years of a vicious civil war. While there I visited a prosthetics factory for amputee victims of landmines. The factory is a wartime industry. When the war is over, the demand for prosthetics will hopefully decrease, and the workload in the factory will go down. The factory may even close, and some technicians will lose their jobs. Would we suggest a subsidy for the prosthetics factory in postwar Angola to keep the technicians employed? No. Similarly, the military-industrial-scientific complex in this country must right-size itself when its mission no longer fits our needs.

When all is said and done, however, I do not believe that we can delay CVN–76 procurement for 5 years or consolidate the nuclear industry without significant nationwide economic impacts. Some of those impacts may even be a shifting of individual companies and workers from one sector of the industry to another. These could be significant disruptions which could affect Wisconsin among other States. I have often said that in our search for cuts in unnecessary Government Programs, no State should be immune. But in order to be true to that commitment, the people of Wisconsin as well as the rest of America know that some dislocations are part of a concerted plan to improve our economy as well as our national security. We must not settle for doling out Navy public works projects. We need to make a commitment to actually turn the industry around. That is exactly the goal stated by President Clinton—to provide a healthy shipbuilding industry in order to provide for our military and economic welfare. I am committed to that goal and opposed to building the CVN–76.

Mr. President, I have more time, but I would like to use it later, after I listen to my colleagues speak. Let me simply say at this point that this is a modest proposal. It is not the 6 that some have suggested, it is not 6 supercarriers and not 7, it is not 9, and not even 10. It is just one less, and an opportunity in next year's budget to save $3.6 billion.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Virginia [Mr. ROBB] is recognized.

Mr. ROBB. Mr. President, I yield myself such time as I may use.

Mr. President, I applaud the Senator from Wisconsin for his commitment to fiscal responsibility. I share that concern and have worked with him on a number of projects to accomplish that particular end. I do not question his motives in this particular case, but I believe that in this particular instance, attempting to save money in this particular way would be a little bit like eating our seed corn.

Mr. President, the Senator from Wisconsin has nonetheless raised a question on the floor that is important regarding when—if you accept the literal reading of the amendment, sometime after 1999—to build the next nuclear aircraft carrier—the CVN–76. This is obviously not an idle question or one of small import.

As the Senator from Wisconsin has indicated, it is a significant item in the President's budget request for fiscal year 1995, no question about it. Construction of the carrier has been requested, delayed, restored, debated, authorized, appropriated, both with and without authorization, and discussed in such strategic and financial detail that even a keen observer might be confused as to where we stand.

Where we stand is as the sole remaining superpower in the world.

Where we stand is as a Nation dependent on sea power to protect American interests abroad and to reliably project military force where and when it is needed.

Where we stand is at a point of decision, not solely on one ship but on the future of America's ability to ever build another nuclear aircraft carrier.

Let one point be clear, Mr. President: To delay CVN–76 to the year 2000 or beyond is to kill not only this carrier, but to cripple America's ability to ever build another one. I will not stand here and try to tell the Senate that CVN–76 is inexpensive. This is a big ticket item. But proper defense in this day and age is never inexpensive—although, I add that I would rather pay in dollars to maintain our strength and to deter a war than to pay in lives because that deterrence failed.

The facts are these: It will never be less expensive to build another carrier. America's interests and the threats to them are not shrinking, they are growing. A smaller Navy will require more capable ships, not less capable ships. They are going to have to be able to maintain the same levels of power projection that are needed to address those particular threats if we simply maintain the status quo. The endurance and flexibility of carriers has been proven time and again to be the most efficient and reliable way to meet those requirements.

I contend, Mr. President, that few in this body are more conscientious of the value of the Federal dollar than I am. The question, before we spend any dollar, should be: What do we get for this? What is its value?

Building CVN–76 on schedule yields sensible answers to those questions. First, America would get the finest ship possible, built with the best technology in the world and ready to meet any challenge. Challenges to America's interests did not evaporate with the end of the cold war. A look at the globe will show that instability and conflict are scattered as widely today as they ever have been.

In a sense, our challenge today is even greater than 10 years ago when then Navy Secretary John Lehman laid down the maritime strategy for offensive operations against the Soviet Union—the strategy, I might add, which called for a Navy nearly twice the size envisioned in the Bottom-Up Review. Then we knew where the challenges lay; today, they could be literally anywhere.

The world has not shrunk, so the patrol areas for aircraft carriers are every bit as large as they were 10 years ago or 50 years ago. To assert that the end of the cold war means the carrier force can be safely cut ignores that reality.

Second, completion of CVN–76 on schedule would allow the Navy to maintain its carrier fleet at strength, avoiding the crises of overworked crews and very high operational tempo, which already affect the readiness of our deployed forces.

A number of Navy captains and admirals have told the Armed Services Committee that current extended deployments are destroying morale and clobbering retention of skilled sailors and naval aviators.

The lengthy maintenance required by older carriers are a real driver in that OPTEMPO.

I urge my colleagues to remember that we are here today because the Bottom-Up Review found a need—not a desire, not a wish, but a military need—for 12 aircraft carriers.

The Navy and the administration are not looking for places to spend money willy-nilly.

The President requested this ship because the Navy needs it to maintain America's presence and deter aggression; if need be, to fight a war; and to train our sailors and naval aviators.

Consider, Mr. President, where that 12-carrier fleet is.

At any given time, one carrier is off the coast of Florida for training. That leaves 11. One carrier is in the Service Life Extension Program, being rebuilt so that the taxpayers can get an extra decade of service out of an existing hull. That is 10. Two carriers are in nuclear refueling or major overhaul. That leaves eight. Four are enroute to or from their patrol areas, or in their homeport building up for the next deployment and giving the crews some brief rotation ashore. That, in effect, at any given time, leaves four carriers to cover the world.

If we start cutting the number in the fleet, what capability do we lose? Should we stop training? Obviously, we cannot do that. Should we cancel rotations home and just keep the men and women of the fleet at sea 12 months a year? That obviously would not fly either. Should we cancel maintenance and just run the carriers into the ground? In some instances we are getting pretty close to doing that already.

In short, Mr. President, there is good reason to keep the fleet at 12. Building CVN–76 on schedule does that.

Third, completing CVN–76 on schedule keeps America's only facility capable of building these aircraft carriers open and operating efficiently. Whatever alternative opponents may have in mind can scarcely keep that vital, highly skilled work force anywhere near intact.

In a recent letter to Senators, the Senator from Wisconsin suggested "combining" nuclear submarine and surface ship construction in one yard might be the best way to preserve that unique work force.

I have to confess that that idea is not without appeal because Virginia is home to the only shipyard capable of doing just that.

But the same Bottom-Up Review the Senator cites so approvingly rejected this particular notion outright.

Fourth, about half of the funding for the ship has already been appropriated; indeed, some construction has begun.

I might suggest that to interrupt construction so that we can wait a few years, to pay more inflation-depleted dollars to rejuvenate the capability to build the ship and then to build the ship is simply not a fiscally responsible course.

Our Nation abides between two great oceans, which have given our Nation protection from so many of the conflicts which affected other areas of the globe. But those same oceans insulate America from many of those places where American people and American national interests can be found.

That is why, Mr. President, since the earliest days of our Republic, our Nation has maintained her maritime strength. And that is why, in these times of global upheaval and instability, we should not let that strength lapse.

Delaying the completion of the CVN–76 to the next century would not only represent a lapse of strength, it would be a sign to the world that the United States is prepared to stand aside and let other nations determine the course of world events.

It is my hope that those who might be tempted to strike the carrier authorization would look hard at four key issues: Military utility; operational tempo; maintenance of an industrial base recognized as vital by the Bottom-Up Review; and the financial consequences to the Government of such a delay.

I know that if these factors are viewed objectively, completing CVN–76 on schedule makes sense from every angle.

With that, Mr. President, I suggest that the option that is presented by my friend, the distinguished Senator from Wisconsin, while appealing in terms of the dollars which appear to be saved in the near term, is not cost effective and puts our ability to respond to the challenges that we face around the world today at risk and a risk that I do not think that we ought to take under the circumstances.

With that, Mr. President, I yield to my distinguished senior Senator and colleague from Virginia whatever time as he may take to address this same question.

The PRESIDING OFFICER. The Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Thank you, Mr. President.

Mr. President, I thank my distinguished colleague from Virginia. We worked on this since the very first day he joined the Armed Services Committee.

I would like to reminisce a moment. In 1969 I was privileged to go to the Department of Defense as an Under Secretary of the Navy, and a great son of Wisconsin was the Secretary of Defense, Melvin Laird.

Few men or women in my lifetime have had a greater impact on my career and my thinking than Secretary Melvin Laird. He had served in the U.S. Navy in World War II, indeed, with distinction and bore the wounds of that war. He understood the full meaning of seapower.

I recall so well sitting with him one day with John Stennis. I was sort of in the background. Senator Jackson had come into the room. Secretary Laird was here visiting in the Congress. He had been a Member of the House of Representatives for many years, and he had been the ranking member of the Defense Subcommittee on Appropriations in the House.

They were talking about carriers. The story was along the lines that every President, when awakened in the middle of the night and has to reach for that telephone instinctively says, "Where are the carriers?" Where is that island of the United States from which we can project immediate response in the cause of freedom? Where are those carriers?

Let me point out some testimony that was given to the Senate Committee on Intelligence earlier this week, Mr. President.

This first chart represents global instability. I want to make certain my friend from Wisconsin can see this. There are charts used by the Director of the Defense Intelligence Agency, General Clapper, who testified this week to the Senate Intelligence Committee.

He indicated in the clearest of terms the conflicts that were of security interest to our country and those of our allies in 1989. Using the following criteria, these marks on this world chart were established. The first were political instability with violence, significant political instability with violence but without sustained combat not regarded as a threat. Second were civil war insurgencies, sustained combat levels ranging from small guerrilla operations to major combat. The latter were in the yellowish categories. The ones with the tinge of red were in the secondary category.

The point is there were roughly 30 conflicts in 1989 in which this Nation in varying levels had an interest.

Then to my astonishment the second chart was raised showing 1994.

These charts were not prepared for this debate on the aircraft carrier. These charts were prepared for a briefing to the Senate of the United States regarding the worldwide situation. The same criteria that I enumerated for 1989 were used for 1994. And it shows that today there has been roughly a doubling. This accounts for roughly 60 instances worldwide of some type of disturbance ranging from major combat to sustained internal civil war.

So often we refer as a baseline to the cold war, which was in the late eighties and reflected by 1989 or shortly before, and how the world has changed.

But it has changed, Mr. President, in that the threats are no longer centralized in terms of the Soviet Union or the Warsaw Pact. The threats now are fragmented. They are worldwide, but in many respects they are just as dangerous, if not more so, to the security of our country and that of our allies.

I did not realize, as closely as I try to follow this situation, the quantum increase in that brief period of but 5 years.

I say to my friend from Wisconsin, given the declining defense budgets, given in some respects the declining budgets in the field of intelligence, what is the justification that we could use in terms of a threat analysis—and indeed it is not that a budget analysis should ever determine the magnitude and the sizing of the Armed Forces of the United States; it is the threat to the security of this country and that of our allies.

I ask most respectfully of my colleague from Wisconsin, do you have any analysis that indicates that the worldwide threat is different than the charts—and I can put them back up if you so desire—than that brought forth by the Defense Intelligence Agency, an agency totally independent of sea power, carriers, or industrial base, an agency within the overall umbrella of our central intelligence network which has the task, the sole purpose of which is keeping the President, the Congress, and other policymakers fully advised as to the threat poised against our country and that of our allies?

I ask the question of my colleague.

Mr. FEINGOLD. Mr. President, in response to the question of the Senator from Virginia, I first grant his premise.

Mr. WARNER. I cannot hear the Senator.

Mr. FEINGOLD. I certainly grant, Mr. President, the notion that the world is a dangerous place; that the actual number of locations where there may be a conflict or crisis may be more than it was in 1989.

I rely, as I am sure the Senator from Virginia does, at least in part, on the Bottom-Up Review itself, which was obviously aware of the world situation in recommending and saying that we could handle the international situation, including two major regional conflicts, with 10 aircraft carriers in wartime and it suggested 12 in peacetime.

I do not dispute the assumption that there are serious problems out there. But we are suggesting there are other ways to achieve that.

Mr. WARNER. The problem is growing in number and not diminishing. Do you accept that?

Mr. FEINGOLD. The number of problems, yes, but I am not ready to concede that we are in a situation yet where it is more dangerous than the cold war. But I do not think I would care to debate whether or not it is more dangerous or less.

The question is, what is the best way, technologically and militarily, to deal with the threat that we face? My response is that, according to the Bottom-Up Review, they prefer and recommend 12 for peacetime but only 10 for wartime. And I believe that we could get the capacity of the additional carrier through the alternative means that I have suggested.

And, of course, I also would like to point out, in response, that we do not even have complete coverage of all the major oceans, even with the 12. That is not even contemplated. I have not even heard my colleague propose that. There is a gap even under the current proposal. Currently, there are 4 months in each of the two major oceans when we have no carrier coverage, even with the 12 carriers.

So I do not dispute your claim that the world is a troubled place, but I do not see what that has to do with whether we need 12 or 11 aircraft carriers when there are alternatives.

Mr. WARNER. Mr. President, if I may, I respectfully disagree with my distinguished colleague's analysis for the basis of cutting in his amendment such cuts as he directs. It is an unusual amendment in its language, but we will not bother to address that at this time.

I would just like to add a few concluding remarks, Mr. President. I am prepared to yield the floor if there are other colleagues who seek recognition at any time, because I intend to remain here until this debate is completed.

But the issue of aircraft carriers is vital because it gets to the very heart of our military power and how we use that power as a nation.

The amendment before us seeks to reduce the size of our Navy in a substantial way. No one disputes that a nuclear-powered aircraft carrier represents an awesome military capability. Its power and its mobility make it an effective instrument, both as a diplomatic tool and as a military tool.

No one disputes that the Navy's carrier construction program has been run efficiently over the past decade or more. There are not charges of cost overruns in this program. In fact, it is a model of efficiency.

The challenge to the carrier is the age old question of how much is enough? Senator FEINGOLD says we do not need it. The President of the United States, however, says, we do need it. And each of his principle advisers state we do need it. And now before us is a bill crafted very carefully by the Senate Armed Services Committee which likewise states unequivocally we do need it.

The question before the Senate is, should we vote here to kill the carrier and challenge the fundamental defense strategy and defense structure of the United States? That is the question.

I would argue such a fundamental shift is not called for and should not be undertaken, and there is nothing that has been presented—with all due respect to my colleague from Wisconsin—which would justify such a reversal of policy.

However, that is what this amendment seeks to do. In one quick flash, the junior Senator from Wisconsin is seeking to alter a fundamental part of our overall national security.

The Senator seeks to do this against the recommendations, as I said, of the President, the Secretary of Defense, and the committee of jurisdiction in the Senate.

Mr. President, for every academic study that can be quoted arguing for a smaller carrier force, there are other studies of at least equal merit, if not greater, that argue for a robust carrier force of at least 15 aircraft carriers.

I do not intend to engage in a duel with those who oppose the aircraft carriers, throwing quotes back and forth from academic studies. I do, however, want to point out that the Department of Defense and the Department of the Navy have engaged in rigorous analyses on the carriers almost continuously since the 1970's. They have studies on all aspects of carrier operational questions, industrial base questions, and they are all available should anyone desire to take the time to study them.

You could fill a small library with all the studies which support a defense strategy which relies on naval power and a larger carrier force. These are not all studies from cold war periods.

They are studies which had as their purpose determining the best strategy for the so-called "new world" order.

One of these studies was done recently by the Institute for Foreign Policy Analysis from Cambridge, MA. Dr. Davis, the author of the study, is a respected analyst on defense issues. The title of the study is Aircraft Carriers and the Role of Naval Power in the 21st Century.

In the Executive summary, I find this quote.

The cost to the Nation of reducing the number of carriers below 12 will, in the long run, far outweigh any near term defense saving that some think can be derived.

The National Academy of Sciences completed a study in 1991 entitled "Carrier 21, Future Aircraft Carrier Technology," which analyzes the relevance of carriers in the future. The National Research Council completed a study in 1988 entitled "Implications of Advancing Technology for Naval Operations in the 21st Century," and that study concluded, "In the near future, carriers will be called upon continuously to fulfill this important national role and mission."

The mission referred to was " * * * to exercise military power in instances when the President has needed such an instrument."

Mr. President, the opposition to carriers doesn't quote from these and other credible studies. They rely on the analysis of others who don't support robust naval power for the United States.

In the interest of balance I believe Senators ought to be aware that there is a great deal of analysis which supports the important role of carriers and the need for 12 or more carriers.

Dr. Davis' study is worth reading for every Senator interested in this issue and therefore I ask unanimous consent that a short five page executive summary of just one of those studies be interested in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. President, the Feingold amendment seeks to alter U.S. defense strategy and reject the recommendation of the President and the Senate Armed Services Committee. I urge its defeat.

Mr. President, I see our colleague here, a distinguished carrier pilot himself in a former career. I hope he will at this time seek recognition and add to this debate.

EXHIBIT 1

EXECUTIVE SUMMARY

(By Dr. Jacqueline Davis)

The defining events of the 1990s—the end of the Cold War, the war in the Gulf, and the dismantling of the Soviet empire—have had a profound effect upon U.S. security planning. Reflected in the Defense Department's "Bottom-Up Review," the Clinton administration is undertaking a major reassessment of defense force structure and logistical support networks designed to meet the challenges of the post-Cold War world, while taking into account public sentiment for greater defense economies now that the Soviet threat has dissipated.

NEW RISKS

But the breakup of the Soviet Union does not mean that U.S. interests are free from risks. There have emerged new risks in the global security environment—risks that may require the employment of U.S. forces. As the one nation that remains uniquely capable of projecting substantial power beyond its shores—and, hence, having at least some impact on the shape of the post-Cold War world—the United States may find it necessary to deploy its forces to regions where vital U.S. interests may not be at stake, but in which broader humanitarian and democratic values are being challenged. Indeed, the deployment of U.S. contingents to such widely varied crisis settings as Somalia, Northern Iraq, Liberia, and recently Macedonia, has already demonstrated the importance of maintaining flexible forces able to respond to a variety of requirements. As peacekeeping and peace-making operations assume a greater priority in U.S. foreign policy planning, and missions of humanitarian relief and disaster assistance—both at home (as in the case of clean-up operations after Hurricanes Andrew and Iniki) and overseas as well—become the norm rather than the exception in the employment of U.S. forces, civilian and military planners will be compelled to find imaginative solutions to the problem of developing a range of force packages for use in multiple contingencies.

THE AIRCRAFT CARRIERS' ENABLING CAPABILITIES

Inevitably, the challenges of security in the 1990s will place greater emphasis on "jointness," both among the U.S. Services and in connection with allied and coalition planning. Because the aircraft carrier platform is large enough to integrate a mix of Marine, Army and Air Force assets with its own considerable striking power, it will be central to U.S. joint planning in the future—both for peacetime forward presence missions and wartime operations. By virtue of its geography, the United States is a maritime nation whose welfare and global role depends on unimpeded access to the world's sea lines of communication (SLOCs). Even though they may be relatively little direct threat to U.S. navigation on the open seas (now that the Soviet Union has been dismantled), the potential for conflict in key regional theaters is very real—conflicts that could escalate into open warfare either involving the engagement of U.S. forces, or posing a threat to U.S. (and allied) commercial and strategic interests, or both. With the proliferation of weapons technologies and the growing lethality of the forces of potential regional adversaries, the capability of the aircraft carrier battle group will provide to a joint commander or theater CINC an important enabling force to facilitate crisis response, sustained military operations, conflict escalation, and war termination.

In future theater contingencies—the primary planning focus of the new strategic guidance that is emerging from the Pentagon—there is likely to be a premium placed on those U.S. and allied forces that can: deploy to a theater of operations in a timely fashion; prevent minefields from being laid in the sea approaches to the area; protect sea-lift assets en route and at the point of arrival and departure; deliver firepower against an array of targets whose interdiction would give the adversary's leadership pause to reflect on the utility of proceeding further with its warfare objectives; and, offer a range of flexible options, in terms of strike planning, escalation control, and war termination.

Against any range of theater scenarios, the aircraft carrier and its associated systems' assets (including its battle-group combatants, but also its deployment of long-range precision-guided missiles and new generation sensor-fuzed munitions) contribute an unparalleled capability to meet any of these objectives, while providing a tangible demonstration of U.S. capability and will—thereby offering U.S. policymakers a unique crisis management and deterrent tool.

Pressured by defense budget cuts, which would be even more severe in the out years, the number of aircraft carrier platforms in the active inventory of the Navy is likely to be a subject of contentious debate. As a capability that could aptly be described as a moveable piece of "sovereign America," the aircraft carrier can steam to a crisis location without raising tensions in countries that are not involved. Operationally, it would also not be encumbered by the political debate that often accompanies requests for the overflight of national territory, or that is inherent in requests for access to local basing facilities. The aircraft carrier platform, moreover, can bring to the scene of a crisis tangible evidence of U.S. resolve, and provide the basis for coordinating joint and combined operations if a given situation warrants the use of military force.

CARRIER FORCE LEVELS

For all these reasons, it would be foolhardy for the United States to reduce its carrier force to a level that could not provide for a flexible forward presence policy. In view of the political-psychological mindset that forms a central aspect of national security decision-making, it may be more difficult to commit (and mobilize) U.S.-based forces for regional crisis deployment missions than it would be to put carrier-based assets already near or on in the area in question on alert status. Planning a force structure to fight in two major regional contingencies "nearly simultaneously" (to use Secretary Aspin's recent formulation) requires a prudent planner to retain the Navy's preferred minimum number of twelve carriers in the force structure. Reducing the number of carriers in the U.S. fleet to ten would result in significant deployment gaps, increased time at sea for sailors, and an inability to react to crises with the flexibility that is necessary to ensure a timely and effective response. Even with a twelve-carrier force, key regions—notably the Mediterranean, Persian Gulf, and the Western Pacific—could only be covered about eighty percent of the time.

In its search to make prudent decisions about force structure (while recognizing the need to achieve some, reasonable defense economies), the Clinton administration needs to appreciate the risks associated with a decision to reduce the number of carrier platforms below twelve. The costs to the nation of doing so will in the long run far outweigh any near-term defense savings that some think can be so derived. By themselves, the intangibles associated with the deployment of a credible forward presence posture centered around twelve carrier battle groups by far exceed (in value) the hoped-for defense economies of cutting the carrier program—and this includes the costs of building a new carrier, CVN–76, to bring to nine the number of *Nimitz*-class carriers.

DEFENSE INDUSTRIES BASE ISSUES

CVN–76 construction carries profound and far-reaching implications for the ability of the United States to sustain a nuclear shipbuilding industry. Construction of a nuclear-powered aircraft carrier entails special skills and a comprehensive base of second- and third-tier suppliers—all of whom are not common to the construction of a nuclear-powered submarine. A decision not to fund the new carrier, or to push off its funding until after fiscal year 1995, will likely result in the disappearance of critical job skills that are crucial to the nuclear carrier shipbuilding industry. If new carrier construction were delayed, or stretched-out—an alternative that is apparently being considered—the result is likely to be a far more expensive program, due to the need to accommodate the loss of key suppliers and to recreate and qualify skilled teams to do the work. Overhaul and refueling work on existing carriers simply would not provide enough work for major component suppliers in the industry to justify their staying in business. Thus, any decision delaying or canceling the construction of CVN–76 will have major implications for both the domestic economy and the defense industrial skill base. Moreover, such a step would affect adversely our ability to reconstitute and mobilize forces if confronted with a major global contingency or the need to fight in two theaters simultaneously.

One option that might be pursued is an incremental funding strategy for CVN–76. Under such an arrangement, the critical vendor base could be sustained through the authorization of funding on three or four "ship sets" of highly specialized equipment for the carrier (e.g., nuclear cores, special reactor pumps, and hydraulic plants). Such funding, in the form of another year of advanced procurement funding for CVN–76, would be a second-best means of preserving the vendor base; yet it would maintain the option to build the tenth nuclear carrier, and would moreover be consistent with the administration's domestic and global priorities.

BOTTOM-LINE ASSESSMENT

Viewed in this context, the carrier emerges as central to sustaining and adequate forward presence capability, and assuring a flexible maritime instrument for responding to the variety of potential local conflict and crisis situations—ranging from humanitarian assistance to peacekeeping, conflict management, and war termination. Clearly, the preferred option would be maintaining twelve carriers in the Navy's force structure—with earlier rather than later investment in CVN–76 production and development. At the very least, it is necessary to secure and sustain a degree of incremental funding sufficient to maintain the vendor base critical to future U.S. carrier construction. If CVN–76 is not funded, the United States may be forfeiting its future ability to build aircraft carriers in a cost-effective and timely manner. The operation implications of failing to move ahead with CVN–76 will undermine the Navy's ability to maintain adequate global presence, and could well hamper any President's ability to respond to unfolding crises swiftly and in an appropriate manner.

Mr. ROBB. Mr. President, may I inquire as to how much time is left on the side of the proponents of CVN–76?

The PRESIDING OFFICER. The Chair will advise the Senator that the time controlled by the Senator from Wisconsin is 25 minutes remaining; the time controlled by the Senator from Virginia is 19.5 minutes.

Mr. ROBB. Mr. President, I reserve the remainder of our time to give the Senator from Wisconsin an opportunity to respond, and then I am going to ask the Senator from Arizona, who has more than a little expertise in this particular area, to discuss the question.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. Mr. President, I yield myself a bit of the remaining time to respond again to the questions posed about the world situation; whether that post-cold-war situation justifies maintaining a 12 supercarrier force.

I do not think it is accurate to suggest that simply because there are more locations of conflict, that necessarily means that the supercarriers are the right response. It ignores the comments that I had the chance to make earlier about alternatives. Before I mention those, let us just remember, though, that even in many conflicts in the past, carriers were not always used. As we mentioned, the report from the Center for Naval Analyses, "The Use of Naval Forces in the Post-Cold-War Era," pointed out that from 1986 to 1990, in 32 percent of the cases of crises just of the kind the Senator from Virginia was pointing out on the map, we did not even use a carrier.

So the assumption that the carrier always has to be there whenever there is a problem—take, for example, Rwanda—it is not clear that is the way we are going to respond to the situation in Rwanda, even though you can tote it up as a number, another place in the world where there are problems.

The issue here is not whether the world is a troubled place. It sure is. The issue is whether the supercarrier is the best way to handle situations, understanding that we have not even used the carriers in all situations in the past.

I am curious to know what response my colleagues would have to the alternatives that have been suggested. Remember, what I am suggesting here, Mr. President, contrary to the statement of the Senator from Virginia, is not to get rid of all super carriers—certainly not to get rid of all carriers, certainly not to get rid of all supercarriers. This side is not opposed to supercarriers. We are suggesting eliminating 1 of 12. And that lost capacity of 60 days in each of two oceans can, according to credible sources, be made up for by the year 2003 with alternates—11 amphibious carriers and dozens of Aegis cruisers and destroyers.

It is my intention by this amendment to save us money, but also to achieve that capacity by other less expensive means that would in effect come from having the 12th carrier. That is my response to the chart. The world is a terribly difficult place, but that does not necessarily mean that 12 as opposed to 11 carriers is the right, most efficient, or most effective response to the problem.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I might make one response before I yield to the Senator from Arizona. I understand the proposition that has been stated by the Senator from Wisconsin. But if we use this criteria—whether or not we actually use the specific weaponry or capability at any given context—I guess the ultimate would be we have not used nuclear weapons since the end of World War II. But having them has a very significant deterrent effect, and certainly maintains the peace in a way that I think all would agree accrues to our long-term benefit without actually using them.

With that, Mr. President, I have actually been on board, at one time or another, just about all of the carriers, certainly the ones that are in commission today, and many of those that have been retired. But the only Member of this body who has flown combat missions off of those aircraft carriers is the Senator from Arizona, to whom I yield 5 minutes at this time.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, I have a question for my friend from Wisconsin, and I ask it: Has he ever been on board an aircraft carrier?

Mr. FEINGOLD. No, I have not.

Mr. MCCAIN. Let me suggest to the Senator from Wisconsin that, at minimum, before he recommends a fundamental change in the structure of our military establishment as envisioned by the Bottom-Up Review—which really was the best minds that we have available, including Gen. Colin Powell, former Chairman of the Joint Chiefs of Staff; Les Aspin, former chairman of the House Armed Services Committee, Secretary of Defense, and the best minds we could get together—came up with the belief with which, frankly, I do not totally agree—but that the United States would have to maintain an 11-plus-1 carrier force.

In all due respect to the Senator from Wisconsin, I suggest at least he go out and visit an aircraft carrier and find out what they do from those people. Perhaps it might be useful, before recommending such a fundamental change in this Nation's defense strategy, that he go out to an aircraft carrier, that he meet with the men and women who are on board—and there are men and women now—find out what their mission is, find out from the people what they are expected to do and can do in a contingency. And I would strongly suggest he might find out they do not believe, and he would

79–059 O—97 Vol. 140 (Pt. 10) 19

not believe after he was there, that Aegis cruisers can take the place of an aircraft carrier.

An Aegis cruiser is a very valuable piece of military equipment. It is excellent for air defense. It really is superb. But its ability to project power over hostile shores is almost zero.

I do not know where the Senator from Wisconsin is getting his information, but to suggest that Aegis cruisers and amphibious vessels somehow replace the fundamental capacity—and the reason why we spend so much money for these aircraft carriers is their ability not only to project power, but to project sizable power into very hostile environments, which is the unique aspect about the aircraft carrier.

I know the argument has already been made the American empire is shrinking. We are withdrawing from Europe. Every day, we see more bases being closed. We even reduced our forces in Korea. Everywhere the empire is shrinking back, which leaves us with less and less ability to project this Nation's power in crises which we see pop up all over the world. There are 40 conflicts taking place in the world today as we speak.

Does the United States have to be involved in them? Rwanda? No, I do not think so. But I think the United States, as the last remaining superpower, had better have the capability to do so.

The amendment of the Senator from Wisconsin is going to lose. Let me recommend to the Senator, before he proposes another amendment next year on the same issue or perhaps on the appropriations bill, that he go out on an aircraft carrier. That might be a nice beginning. And that he go and visit the people that have been involved in this. Ask them what is the best for them—they are an all-volunteer force—the best way to carry out the protection of this Nation's vital national security interests. Then come back, maybe, and talk to people like Gen. Colin Powell—who is an Army officer, I might inform my friend from Wisconsin—and others who have the experience, who have the knowledge, who have spent their very lives—and I am not speaking of this Senator, but others—in defense of this country. They will tell the Senator that 11 plus 1 is the bare minimum of what we need for aircraft carriers.

I believe my time is nearly expired, but I oppose this amendment. I think it is wrong. I think there are a whole lot of areas the Senator from Wisconsin and I would agree on that need to be cut back, that are not vital in the post-cold-war era. I ask him to get a briefing on the Bottom-Up Review that I mentioned earlier in my remarks. And I ask him to consider carefully that the alternatives he and others are suggesting clearly are not compatible with this Nation's vital national security interests and our strategic requirements.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. Mr. President, I thank the Senator from Arizona for his comments, but I must say to the Senator from Arizona, I did not feel it was essential that I travel to Bosnia before I voted on the arms embargo. It would be nice if I had. I wish I had the opportunity to spend a lot of time in the California desert wilderness before we voted to protect that. But I think that is a bit of an unrealistic expectation.

We, as Senators, have a few things to do, and if we cannot rely on documents produced by our Government, such as the Bottom-Up Review—that is exactly the source of much of the information I am using here, and things like a GAO report on Navy carrier battle groups—it is this report that suggested that there are alternatives, that there are amphibious ships that can assist us in these situations.

I think this is important because we try to have an argument here and we say, Can we get away with 11 rather than 12? What does the other side say? That the Senator from Wisconsin is proposing eliminating all aircraft carriers; that he is saying that the alternatives are the same; that they can do the same thing as any aircraft carrier.

No statement we made has suggested that. It remains the case, though, that in many instances, supercarriers are not needed and are not used. The question is that difference between the 11 and 12 carriers and whether there are alternatives, as suggested by this GAO report, that can make up for that difference and save us some money.

So it is very easy to exaggerate what this amendment is all about. It is not the elimination of the carrier. It is not the six. It is not the seven. It is not the 9 or the 10 or the other proposals that have been made by some. It is suggesting, very consistent with the Bottom-Up Review itself, that we have the 11, which is more than is needed, for two simultaneous war situations, and it is one less than the 12 suggested by the Bottom-Up Review. But we have outlined some of the alternative ways that that difference can be made up with less cost to our country. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield 4 minutes to my distinguished senior colleague from Virginia.

The PRESIDING OFFICER. Senator WARNER is recognized for 4 minutes.

Mr. WARNER. Mr. President, what the amendment does do is to create a giant scrap heap of rusting steel in which the American taxpayers have invested close to a billion dollars. That is not an insignificant action in consequence. It will put roughly 120,000 people, not just in the Commonwealth of Virginia but spread over 42 States throughout the country—it will put them out of work, all in the name of—I am not sure what.

It seems to me that that person who is the Commander in Chief of the Armed Forces of the United States should have a voice in this. I was privileged when I was aboard the U.S.S. *Theodore Roosevelt* on March 12, 1993, when our President saw fit to visit a carrier. He said the following. I quote the President of the United States, President Clinton:

> They are operating on station in strategic locations around the world protecting our interests and promoting stability, ready to meet the call. They have been doing this for most of the 20th century. When word of a crisis breaks out in Washington, it is no accident that the first question that comes to everyone's lips is: "Where is the nearest carrier?"

He continues:

> This means building the next new Nimitz class carrier in the mid-1990's as planned. But it also means retiring the older, less capable carriers. The breakup of the Soviet Union and the dramatically reduced possibility of this type of conflict allows some reduction in carriers, although they still play a vital role in meeting regional threats. With few carriers, we will have to be more flexible on the deployment schedule and operating tempo in order to ensure that sailors are not required to endure longer tours of sea duty than now expected.

That was in an interview with Defense Week, July 13, 1992.

One of my most vivid recollections of the war in Vietnam was in the fall of 1972, when as the Secretary, I was privileged to go out and visit our fleet. At that time, some of the carriers operating off station had been there for 7 months—7 months, Mr. President. It tested the mental endurance and the physical skill of those brave sailors, and particularly the airmen.

We were coming to a point where we were going to go beyond the physical endurance of those sailors to operate. The rotation base, the ability to replace those carriers had been shrunk.

This carrier comes to sea roughly in 2003, and this decision is trying to project ahead what is going to face the United States of America in that time period.

The Bottom-Up Review carefully went over that under the direction of the President of the United States and with the subsequent approval of the President of the United States. The Bottom-Up Review said 11 carriers plus 1 training carrier.

So the analysis has been made, the Commander in Chief of the U.S. Armed Forces has made his decision, and I say, with all due respect to my colleague from Wisconsin, we have not heard a case to overturn the decision of the President, the Secretary of Defense, the Armed Services Committee of this body.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield myself 1 minute. I just might observe, in response to the remark made a few minutes ago by the Senator from Wisconsin, I understand and agree with his suggestion that we cannot always have participated actively or visited the sites or the activities that we are forming some judgment about. But in this particular case, and the way this body normally operates, we do yield to the committees of original jurisdiction a certain amount of responsibility to try to ferret out the most important questions and, in this particular case, this is not only the No. 1 priority for the Navy, it is not only done on the basis of the need through the Bottom-Up Review for the 11 plus 1 that has already been suggested, it is not only a matter of preserving the industrial base, it is not only a matter of saving taxpayer money, but with all of the disagreements that we have in the Senate Armed Services Committee, this provoked no disagreement whatever.

There was no dissent on this matter, even though there was considerable dissent with some of the things we will be discussing later on today, within the committee of original jurisdiction where extra time and staff expertise on a bipartisan basis was devoted to trying to make certain that this was appropriate as recommended by the President, by the Defense Department, by the Joint Chiefs and by the Navy.

Mr. WARNER. Will the Senator yield 1 minute to me?

Mr. ROBB. I yield 1 minute to the senior Senator from Virginia.

Mr. WARNER. Mr. President, in my statement, I referred to the impact of what this amendment would do. I want to emphasize that 42 States have subcontracts, and there are roughly 120,000 jobs that will be impacted directly by this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 19½ minutes remaining; the Senator from Virginia has 7 minutes remaining.

Mr. FEINGOLD. Mr. President, I yield myself such time as I need at this point.

The senior Senator from Virginia asked why are we doing this? In the name of what? One answer is in the name of $3.6 billion. That is a pretty good answer to my constituents back home, at least as an opener, as an ante. That is money.

I have had the experience in only a year and a half of meetings with the Navy on a number of occasions—they were excellent meetings; the competence and ability of the people I had the meetings with was really very impressive—I had trouble ferreting out what is the top priority.

I had a very impressive group from the Navy in my office who told me the Trident II missile was the top priority when that was being discussed and questioned. That was the one they really cared about. That was No. 1.

I said, "Why can't we get rid of Project ELF in Wisconsin; nobody wants it there; it doesn't seem to have much to do with national security anymore?" They said, "No, we need that, too."

I understand their job is to protect this country. Now we are told that this additional carrier, 12 rather than 11, is the top priority. It is just a little difficult for me as a Member of this body. I might add to what the junior Senator from Virginia said, he may be on the committee but I still have to vote on it, I still have to discuss it. This is my opportunity to raise some questions and have a vote.

The Senator is right; he is going to win this vote. He does not look very worried. I understand there is even a pool in my office as to whether I will get 10, 15 or 20 votes. But I still think we have to talk about it.

The reason is that this is a very large expenditure, that every Senator should be involved in looking at it.

This item alone, if we cut this $3.6 billion, would bring this bill before us under the level of fiscal year 1994. Right now it is ahead. I think it is $2.4 billion over the 1994 level.

And I also know that sometimes you cannot get something done in the first attempt. I have already watched, over the years before I came here and since I have been here, the very difficult efforts to question the superconducting super collider, which have succeeded, the effort to question whether or not we need the whole space station program, which did not succeed last year but may well succeed now. And I know that this one is tougher because if we do not stop it now, basically next year a lot of it will be spent and it will be very hard to stop this program.

But perhaps this process will lead to what I think is an achievement of a much greater scrutiny of these programs. There needs to be more of this discussion out in the Chamber. So I would very respectfully disagree with the junior Senator from Virginia; that the ultimate place to ask these questions after we review the hard work of the committee is out in the Chamber and to discuss them.

I just want to remind my colleagues what kind of dollars we are talking about—$3.6 billion in 1995 alone. And the senior Senator from Virginia is correct; we have already spent almost $1 billion on this program. But when the argument then is we should keep going and spend the other $3.6 billion, I do not need to say that that is good money after bad.

There is more money involved here, though. Once this is up and operating, once we have the 12 supercarriers in the year 2003, the operating costs are $1 billion a year. So we have already put together those billions each year—the $3.6 billion next year—and it does not even take into account the very significant associated costs of the air wing and the protective ships that have to go with such an important piece of machinery as a supercarrier.

Mr. President, this is about something very real. In fact, I would even suggest to the Senators on the other side of this amendment that there are other military programs that could perhaps benefit from cutting this. I would prefer the money be used to reduce the deficit entirely. But perhaps there are chemical/biological defense programs, counter proliferation, base cleanup, chemical weapons destruction, other things that are underfunded in the military could obtain some of these funds that are going to be devoted to having 12 rather than 11 supercarriers.

In fact, in a meeting we had on this subject with some people who have analyzed this, the point was made there had been a cut in some recent development for antimine technology, minesweepers. We may be cutting spending on the very items that can protect the 11 carriers. Is it better to have 12 carriers that are vulnerable to mine attack or is it better to have 11 that are invulnerable?

Those are the real choices here, not between the Defense Department and the rest of the issues but within the defense concept. Spending this much money now on this particular supercarrier means, as the chairman of the committee indicated earlier on another amendment, that there will simply be less money available for other critical items for research and development that may ultimately have far more to do with national security than one supercarrier could ever have.

So, Mr. President, I recognize the partisan risks as well as the other risks of proposing an amendment like this, but I at this moment would like to appeal to my colleagues on the other side, some of whom I have worked with very closely, to try to find ways on a bipartisan basis to cut spending. We saw that happen in the Exon-Grassley amendment. I thought it was one of the best hours in the Senate, when we were able, on a bipartisan basis, to vote to say we can do better, we can cut $26 billion out of the budget.

I think we can do the same thing that the senior Senator from New Hampshire was trying to do on the Treasury bill. I voted to recommit the Treasury bill with that Senator from the other party. One of the reasons was that it was $1 billion over last year. That is not reason enough, but it is an important reason. Another was that it

appeared to me we were restoring positions that we had just cut last year. And there were also items on that appropriations bill that were off budget. So I supported Senator SMITH on that item because he made an impassioned plea that we cannot just talk about across-the-board spending cuts, that we cannot just project a time in the future or say that all of the cuts have to come from entitlements or it will not mean anything. The real hard work is getting out here and having members of both parties vote, drop those party lines and say this one does not make sense; it is in the national interest to save the $3.6 billion and use it for other priorities.

Mr. President, I wish to reiterate this is not an attack on the idea of having supercarriers. Obviously, they are very important to our country. I do not even want to sign on to those analyses based on that assumption that may not come true that talk about six or seven. Our proposal does not even bring the number of supercarriers by the year 2003 down to 10, the level that the Bottom-Up Review itself says is sufficient for two virtually simultaneous major regional conflicts where we do not even have allies. I am not even trying to do that. We are just trying to see if we can go from 12 to 11.

I would like to take this opportunity to read the rest of what President Clinton said on the *Roosevelt*. He did make the statement that the senior Senator from Virginia pointed out. I might add before reading the rest of his comments, President Clinton during the campaign proposed we have only 10 supercarriers. Some of my friends here in this body are always criticizing him for breaking his promises. He is not doing that here, but I am doing better than he did in the campaign. I am only saying 11. But what did he say? He did say that, "when word of a crisis breaks out in Washington, it is no accident that the first question that comes to everyone's lips is: Where is the nearest carrier?" I do not dispute that that is what the President said. But in the same speech he also said this:

> A changed security environment demands not less security but a change in our security arrangements * * *. You have changed your crew and your equipment to reflect the new challenges of the post-cold-war era * * *. That enables you to operate perhaps with fewer ships and personnel but with greater efficiency and effectiveness. This isn't downsizing for its own sake; it's right-sizing for security's sake. The changes on board the *Theodore Roosevelt* preview the changes I believe we must pursue throughout the military.

So said the President—not downsizing for its own sake, not downsizing because the carriers are not important, but right-sizing in combination with other technologies, other military capability to still achieve the peacetime capacity that the Bottom-Up Review has recommended.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield 2 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for 2 minutes.

Mr. COHEN. Mr. President, first let me state that I have no parochial interest whatsoever in this particular ship. I do not know the 30 or 40 States that my colleague from Virginia has mentioned. I have no such interest in this particular aircraft carrier, but I do have an interest in the security it provides for this Nation.

I was interested to hear the Senator from Wisconsin say that candidate Clinton campaigned on the basis of having 10 carriers. I might point out that candidate Jimmy Carter campaigned on the basis of pulling 5,000 troops out of South Korea. And only when he became President and found that would have destabilized the region did he respond to the Senator from Georgia [Mr. NUNN], Senator Hart, Senator GLENN, myself, and others who urged him not to take that action which would have been precipitous and dangerous at that time, too.

President Clinton campaigned on no MFN for China. He found out after his year and a half in the White House that it was important to have MFN for China.

So we should not hark back to what candidates campaigned on and try to hold us to that particular standard. The fact of the matter is that a candidate who then becomes a President finds that more information makes them wiser in their deliberations.

I have heard it said in the past that "ideals without technique is a menace," and "technique without ideals is a menace." The same might be said about power: "Power without diplomacy is a menace or can be a menace." But diplomacy without power is the equivalent of capitulation in most examples. We have to have both power and diplomacy. And the aircraft carrier is the single most important component of providing us with both power and diplomacy.

We debated the issue of the C–17 yesterday at length, talking about the kind of airfields that we may be called upon to fly into in a hostile environment. These are our floating airfields. These are our fields that we have to fly off from and back to in a time of crisis. And if we have to err, we ought to err on the side of caution for the 12-carrier battle groups rather than the 11 that is being suggested by our colleague from Wisconsin.

So I urge the defeat of the amendment being offered.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield such time as remains to the senior Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes.

Mr. THURMOND. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise to oppose Senator FEINGOLD's amendment to delay procurement of CVN–76 until fiscal year 2000.

The Senator asserts that our Nation does not really need CVN–76. My observation is that the chairman of the Joint Chiefs, every military secretary, former Secretary of Defense Aspin, and Secretary of Defense Perry, believe our Nation does need CVN–76. Further, the Congress has already expressed support for CVN–76 by approving $832 million in fiscal year 1993, and appropriating, subject to authorization, another $1.2 billion in fiscal year 1994 for this carrier.

Senator FEINGOLD asserts that the Bottom-Up Review confirmed that a force of 10 carriers would be adequate to fight two major regional conflicts, and that we can drop from 12 carriers to 11 or even 10 without weakening our defenses.

I would observe that the Bottom-Up Review rejected a force of 10 carriers and recommended 12 because they serve not just as instruments of war but as instruments of deterrence and diplomacy as well.

For the past 50 years, carriers have been used to preserve the peace. They have been called on more than 140 times since World War II to meet crises and protect our Nation's interests. As our overseas bases are reduced, the need for their mobility and power will become greater, not less. Witness the intense use in Bosnia and Somalia during the past year, not as relics of the cold war but as naval linchpins of its turbulent aftermath.

Senator FEINGOLD argues that the risk to our nuclear and shipbuilding industrial bases of delaying CVN–76 until fiscal year 2000 is acceptable. I do not agree. The Bottom-Up Review and other Navy assessments estimated that at least $2.1 billion and some 7 years would be required to restore the nuclear shipbuilding base if we let it lapse. Even a year's delay would cost $400 million or $500 million.

Additionally, many thousands of jobs could be adversely affected. The possible damage to the Nation's economy is more than I care to risk when I know that a strong need for CVN–76 exists right now.

Senator FEINGOLD's proposed legislation can harm our Nation's defense, will damage the nuclear shipbuilding

industrial base, will risk the possibility of losing the ability to build nuclear aircraft carriers, and will weaken our Nation's ability to carry out its primary mission.

I urge my colleagues in the Senate to vote against it.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, the Senator from Virginia reserves whatever time is remaining. I am prepared to yield back time depending upon the actions of the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin has 9½ minutes.

Mr. FEINGOLD. Mr. President, at the very end of the debate on this amendment, there have been very candid major arguments that the world is a very dangerous place—which I concede— that it is best to serve on the Armed Services Committee to debate this amendment, to even debate this issue, and that it probably is a little better if you tour a carrier.

But what I have not heard specifically are responses to the arguments that I have tried to make in support of the amendment, and virtually no recognition by the other side of just what $3.6 billion means to this country; what it means to kids in this country who have AIDS; what it means to cities that have their water virtually poisoned because we do not have the funds to clean up that water supply; what it means to families that have members who have Alzheimer's disease and cannot afford long-term care.

These are situations that need help and that could really use some of that $3.6 billion. But I do not leave it at that. I have also not heard a serious response to the question of: Is there not within the military itself a better use for some of these funds than to stay at 12 rather than having 11 carriers?

I repeatedly mentioned during the debate the fact that credible sources, including the GAO and others, have talked about real alternatives, Aegis cruisers, and others, that can provide the same kind of assistance that a carrier can in some situations.

I concede to the Senators from Virginia, not in all situations, but that in many situations it is possible that a lighter, different type of carrier or different type of ship could help provide the help that is needed without having to have the 12 carriers.

So we have not heard a single specific response other than saying the world is dangerous, and you have to have 12, you cannot have 11. It makes you wonder how we are going to survive without 15. Presumably there is no upper limit to how many carriers are needed to be absolutely secure.

Finally, Mr. President, I really do not see how I can stand here on the Senate floor and rely entirely on the committee when we do not talk seriously about what $3.6 billion means in lost research and development in future military capability. The world has changed. The cold war is over and military technology and the dangers in the world have changed. The senior Senator from Virginia made that point very well. Many believe that it has changed so much that the carriers themselves may not be as relevant to crises situations as they have been in the past. I have not reached that conclusion. But there are those who say that.

What we need to do here in the U.S. Senate is to start talking about what $3.6 billion means in terms of national security, including economic national security and the other issues which I have mentioned.

Just take that $3.6 billion and ask yourself: Are we really going to save more lives in a military situation by spending it on an additional carrier, or should we be doing a whole number of other things for readiness that this country may desperately need as we try to deal with those multiplying situations that the senior Senator from Virginia has identified, many of which I will argue may not be needed and conducive to a supercarrier at all?

Mr. President, $3.6 billion in one bill, in 1 year, will not even bring down the level of carriers from 12 to 11 until the year 2003. This is not an attack on the military. It is a strong suggestion that we can find another way to provide the same level of national security with less money and in a way that is more appropriate for the new era that we have entered since the end of the cold war.

I yield the floor.

Mr. BOND. Mr. President, I join in opposition to this amendment and express my support of the $2.4 billion funding authorization for the CVN–76. This funding was recommended by the Senate, approved by the House Armed Services Committee and the full House, as well as the Senate Armed Services Committee. It should also have the approval of the full Senate.

The pending amendment is about our ability to project force, not just today but into the next century. Approval of the pending amendment would severely impede our ability to project force and pursue our interests around the world.

American troops are leaving forward bases around the world and returning to the United States. We are giving up air and naval facilities around the world, further limiting our options in terms of projecting force. All of this is happening at a time when regional conflicts and threats to U.S. interests are multiplying at a staggering rate. One just has to read this morning's newspaper to see that we need to maintain the capability to get U.S. airpower to hotspots all over the globe.

Just looking at the past few months, we now have ships enforcing the embargo off Haiti, we have a carrier on call to respond to developments on the Korean Peninsula, we have had carriers operating in support of the no-fly zones in Bosnia and Herzegovina and Iraq. And that is while we are in a peacetime situation. The carriers are the most-used tool of a President seeking to send a message to a foreign leader or to respond quickly to a foreign crisis.

The importance of our carrier force is well-illustrated by looking at our experience in the gulf war. In that conflict, we had the good fortune of deploying our forces to a country with some of the best airfield facilities in the world, with the result that we were able to deploy a large amount of our land-based air forces. Despite that fact, we still sent six carriers to the gulf and all were heavily involved in the conflict.

The Bottom-Up Review found that a 12-carrier-force is the smallest that this country can deploy. If we are to deploy a force that size, then we must buy CVN–76. Personally, I have been one who has expressed some concern about many of the recommendations for force levels in the BUR. I think that in many places it recommends force cuts that go too far. With regard to carriers, I am not convinced they have made realistic assumptions about how many carriers would be needed to respond to a major regional contingency. I believe that is an important point even though the recommendation for 12 carriers is based on peacetime needs to maintain U.S. presence around the world because we cannot afford to make a mistake in terms of equipping our forces for the two MRC contingency. It certainly would be a mistake for the Senate to go beyond the BUR cuts, especially with regard to a system as critical as the carrier fleet.

It is also important to consider the impact of this amendment on the men and women who operate the ships in the carrier battle group. There is no question that our obligations around the world are not getting smaller. In fact, we are likely to see more conflicts in the coming years. That means we will have to continue to keep the carriers deployed. If we fail to replace aging carriers and allow the fleet to shrink, the result will be that the length of deployments will grow. We tried that in the seventies. It was bad for morale and it resulted in large numbers of qualified sailors leaving the Navy.

Our aircraft carriers and the aircraft they carry are a central part of our overall military force. They are and will continue to be the first to fight in any conflict. And they remain one of our most powerful tools for diplomacy and avoiding conflict. The point is—we use them a lot. That means we must invest in recapitalization of the force—we must regularly buy new ships and new aircraft.

When it comes into service in the year 2003, CVN–76 will replace the *Kitty*

Hawk, which will have served for 43 years. I would say we got our money's worth out of *Kitty Hawk* and that it's time to replace her.

I would like to turn for a moment to one of the arguments that has been made by the principal sponsor of this amendment—that no one else in the world has a supercarrier like that of the U.S. Navy, and that, by implication, we don't need another one. To that, my response is that I agree with the first part of his statement—I want our sailors and naval aviators to have the most capable systems in the world. I want them to have the best ship, the best airplane, and overwhelming power. I don't want them ever to have to be in a fair fight. I want them to have a bigger force, better weapons, and better training so that they have a better chance of winning and returning home safely.

Mr. President, it is clear to me that we need CVN–76. It takes 7 years to build a nuclear aircraft carrier. If we are to be able to deploy this ship when it is needed in the next century, we must get started now. For that reason and the other reasons stated above, I urge Senators to oppose the amendment before us and fund the new carrier.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia [Mr. ROBB] is recognized.

Mr. ROBB. Mr. President, let me just conclude by saying that I understand the appeal for an alternative means of spending. For almost any matter that we consider, there are attractive alternatives. But, in this case, the Department of Defense, the Navy, the President of the United States, and the Armed Services Committee considered a number of alternatives, considered options, and decided that this was the most important way that this particular money could be spent at this particular time.

I recognize that this is an appeal for those who want to get their fiscal responsibility quotient up, as I frequently do in other areas, to vote against the authorization of the carrier. But in this particular case we will be responding to the needs of our Commander in Chief, the services, and the committee of original jurisdiction.

With that, all time having been yielded back, I move to table the amendment offered by the Senator from Wisconsin and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON] is necessarily absent.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—72

Akaka	Glenn	McCain
Bennett	Gorton	McConnell
Biden	Graham	Mikulski
Bingaman	Gramm	Mitchell
Bond	Grassley	Murkowski
Boren	Hatch	Murray
Breaux	Hatfield	Nickles
Bryan	Heflin	Nunn
Burns	Helms	Packwood
Campbell	Hollings	Pell
Chafee	Hutchison	Pressler
Coats	Inouye	Reid
Cochran	Johnston	Riegle
Cohen	Kassebaum	Robb
Coverdell	Kempthorne	Rockefeller
Craig	Kennedy	Roth
D'Amato	Kerrey	Sarbanes
Danforth	Kerry	Shelby
Daschle	Levin	Simpson
Dole	Lieberman	Smith
Durenberger	Lott	Stevens
Faircloth	Lugar	Thurmond
Feinstein	Mack	Warner
Ford	Mathews	Wofford

NAYS—24

Baucus	Dorgan	Metzenbaum
Boxer	Feingold	Moseley-Braun
Bradley	Gregg	Moynihan
Brown	Harkin	Pryor
Bumpers	Jeffords	Sasser
Byrd	Kohl	Simon
Conrad	Lautenberg	Specter
DeConcini	Leahy	Wellstone

NOT VOTING—4

Dodd	Exon
Domenici	Wallop

So the motion to table the amendment (No. 1841) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1840

Mr. JOHNSTON. Mr. President, what is the regular order?

The PRESIDING OFFICER. Amendment No. 1840.

Mr. JOHNSTON. Mr. President, amendment No. 1840, that is the Johnston-Feinstein amendment?

The PRESIDING OFFICER. It is the Johnston-Feinstein amendment.

Mr. JOHNSTON. Mr. President I understand that we are ready to go to a voice vote on that amendment.

Mr. LOTT. Mr. President, I ask the distinguished Senator from Louisiana to yield at this point.

Mr. JOHNSTON. For a question?

Mr. LOTT. Yes; for a question.

Mr. JOHNSTON. Yes; I yield for a question.

Mr. LOTT. Mr. President, I would like to say to the distinguished Senator from Louisiana that I understood from the Senator from Georgia that he was going to try to get up an amendment at this point right away.

We are running some numbers and trying to get information from the Pentagon on a solution that we think might be acceptable on this problem. I had indicated to the Senator from Louisiana that I would like to go ahead and get this matter resolved, but I would like to get a colloquy before we go to a final vote from the Senator from Georgia, the chairman of the committee, and see if we could get these numbers before we get a recorded vote.

In addition, my colleague from my State is not here at this point. I would like to get a chance to get him back to the floor before we would do that, if the Senator would be willing to give me just a few moments more.

Mr. JOHNSTON. Mr. President, I certainly want to accommodate my friend from Mississippi.

Do I understand that, as far as this amendment, that is, the restoration of the money for the fast sealift, that that essentially will be agreeable and the Senator is trying to work out the funding for the LHD–7?

Mr. LOTT. That is correct.

Mr. JOHNSTON. So that we can safely breathe easier on the refunding of the fast sealift?

Mr. LOTT. I think that the answer to that is yes, we want to get that done.

But we are trying to see if we can come to some agreement on how to continue the opportunity for the LHD–7. So that is where we are right now.

Mr. KOHL. Mr. President, I am troubled by the vote which took place in the Armed Services Committee to divert more than $600 million in funds designated for sealift to build a seventh amphibious assault ship of the LHD–7 *Wasp* class.

I am concerned about any further delay in awarding contracts for two large, medium roll-on and roll-off ships to preposition heavy equipment for the Army. The Army has made clear that this move will seriously hamper their efforts to meet longstanding lift requirements. The Chairman of the Joint Chiefs of Staff has weighed in noting that this diversion of funds to the LHD flies in the face of the conclusions of the mobility requirements study and that the committee's decision was based on erroneous information.

We now have the ability to correct that error. Initially, the members of the Armed Services Committee were led to believe that the Navy would have another year to exercise its options to initiate the sealift contracts. That is not true. The contract option on these two sealift ships expires this year, possibly requiring a renegotiation of the contract.

I understand that the LHD option is expiring as well, but we are designated

to building the LHD–7 down the road. The Pentagon has made the difficult decision that exercising the sealift option at this time is the higher priority.

Mr. President, funding the LHD the way we have in this bill is bad policy. I am deeply concerned about the bad precedent we have been setting by partially funding LHD ships. For some time now, we have operated under the rule that we will not partially fund big ticket items so we know up front what we're buying and how much we're paying for it. The LHD–6 was the first major departure from this practice. It was a mistake. By proceeding in this fashion, we are watering down the full funding provision even further.

I have subcontractors in my State who suffer if these sealift ships are not built. But, frankly, there are Wisconsin winners and losers on both sides of this issue. There are LHD subcontractors in my State who have told me they will be hurt significantly if they do not begin work on the LHD this year.

Thus, on the merits alone, supporting these Sealift ships is the right thing to do. It is in the best interests of our national defense and it is sound fiscal policy.

I want to thank the Senators from California and from Louisiana for their work on the issue. I urge my colleagues to support this amendment.

Mr. SHELBY. Mr. President, I rise in opposition to the amendment offered by the Senator from Louisiana. I take this action, not because I believe that the Fast Sealift Program is unnecessary, instead because the LHD Program is more necessary.

The LHD is an amphibious assault ship that can perform functions similar to a carrier. It carries all types of Navy and Marine helicopters, Harrier jump jets, landing craft, amphibious vehicles, a fully staffed hospital, and landing craft. More importantly, it can carry 2,000 marines into harms way.

The LHD's are already in the fleet with three more currently in production. Funding for the LHD–6 was provided in two stages. First, in fiscal year 1993 and then last year in fiscal year 1994. We are now at a point where an option exists that would save the Navy about $800 million if the purchase is begun this year. We will also be able to provide the Marine Corps with the critical amphibious lift to support validated requirements for 12 amphibious ready groups.

The LHD–7 is currently in the Navy shipbuilding plan for the year 2000. I am afraid that there is no way that we can guarantee that this high priority will be funded at the turn of the century. That is why we are seeking funding for the LHD–7 this year.

The House Armed Services Committee has funded the LHD–7 at a level of $100 million in its defense authorization bill for fiscal year 1995. It also fully funds the sealift fund at $600.8 million. Therefore, I believe that there is a chance to compromise here or in the conference with the House of Representatives.

The committee, by a vote of 14–7, approved this initial step in funding the LHD–7. There has been much discussion in this Chamber that we gutted the Sealift Program. At the time the committee voted we were under the false impression that the options for the next two sealift ships would not expire until the end of next year. I do not believe that we can at this point determine that had we been provided correct information the vote would have been the same. What we do know, however, is that the committee was voting to begin funding the LHD–7 now in order to save $800 million.

Mr. President, I intend to vote against the Johnston-Feinstein amendment and urge my colleagues to vote against this amendment.

Mr. JOHNSTON. Mr. President, I have a copy of a letter from the Deputy Secretary of Defense, John Deutch, to Senator SAM NUNN, the comport of which is to say we object to the committee's action because it would force the Department to buy a ship we currently do not need and defer funding for the very ships we do need.

I ask unanimous consent that the text of that letter be printed in the RECORD.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 23, 1994.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: While we largely applaud the Defense Authorization Bill your Committee has reported, the Department strongly objects to the actions taken to accelerate construction of the LHD–7 amphibious assault ship, especially at the expense of the Department's ongoing program for sealift modernization. The Committee's recommendation on the LHD–7 is seriously flawed for two reasons.

First, the Department is opposed to incremental funding for major weapon systems. Full funding of investment programs is a bedrock premise for the funding integrity of defense programs. It was imposed by the Congress and embraced by the last six administrations. Unfortunately, departures from this principle have come from the legislative branch in recent years. We supported Congress' actions on the CVN–76 last year only because we had already been appropriated $800 million in advance procurement and had budgeted the full amount for construction in the very next year of our five year plan. The LHD–7, however, is not included in our plan until the end of the decade. We cannot accept this intentional erosion of the full funding principle, especially at a critical time when defense resources are stretched nearly to the breaking point.

Second, the Committee is recommending we buy the wrong amphibious ship at this time. The LHD is an impressive ship and contributes directly to our lift capacity for helicopters and landing craft. These are the two areas, however, where current amphibious capacity exceeds requirements. Amphibious shipping currently is deficient in capacity to carry vehicles, but this is the one area where the LHD–7 makes only a limited contribution. Instead, the Department is proposing a new class of amphibious ships designed precisely to address this shortfall. Buying an LHD at this point will likely divert funds from the amphibious ship the Marine Corps truly needs in the future and it diverts FY 1995 funds from the acquisition of critically needed, surge, sealift ships that will contribute to the force mobility so essential in today's national security environment. We object to the Committee's actions because it would force the Department to buy a ship we currently do not need and defer funding for the very ships we do need.

For these two reasons, we must ask that the Committee reconsider its actions, reverse the unwarranted cut to our sealift program, and avoid a needless distortion of the Department's amphibious modernization requirements.

Sincerely,

JOHN DEUTCH.

Mr. HEFLIN. Mr. President, I rise today to convey my strongest personal support for funding of the LHD–7 amphibious assault ship as a fiscal year 1995 procurement. The ship is unquestionably needed, and the cost of delaying the construction of this next ship in the WASP class is unacceptably high.

World events have demonstrated the need for flexible and responsive forward deployed forces capable of crisis response, peacekeeping, and humanitarian relief missions. The Navy/Marine Corps team of expeditionary naval forces, deployed as Amphibious Ready Groups aboard the LHD series of ships, is uniquely well qualified to perform these vital functions.

Mr. President, there seems to be some confusion here as to what we are debating. Some say the debate is about what type of ship is needed. Others say the issue is the cost of letting existing contract options expire. Still others point to the impact of SASC action on the fielding schedule of the sealift ships. My point is that regardless of which question you ask, funding the LHD–7 as a fiscal year 1995 procurement is still the best answer.

Let me begin by saying that the Department of Defense is clearly on record validating the need for the LHD–7, the regional CINC's testified to the Armed Services Committee that they need and want the LHD–7, and that the Marine Corps considers the ship to be critical to their ability to meet the Nation's naval forward presence needs. Amphibious lift is not the same as sealift. The issue is more than just lift; the issue is also an adequate number of the right types of ships with the right capabilities for flexibility and utility. The Marine Corps deploys its forces in Amphibious Ready Groups which use the big deck LHD–7 as their centerpiece. All of the relevant studies, the Roles and Missions Report, the Bottom-Up Review, and the Navy White Paper "* * * From the Sea"

agree that 12 Amphibious Ready Groups are needed, and the LHD–7 is critical to that requirement.

The next issue is cost. Much has been said with regard to the fact that the contract option will expire on the two sealift ships if we delay them. The fact is, we face the expiration of contract options on all three ships this year. The question ought to be, since we can't afford to exercise all three—which one is going to cost us the most to let go? Just remember, every time a Senator says that the option will expire if we don't purchase those two sealift ships next year, what he or she is saying is that we will be forced to spend approximately $100 million more than planned to build these two ships a year later. That is what the contract option saves us, about $100 million.

Exercising the LHD–7 contract option, however, will save us over $700 million. Now, this is important—the savings to be achieved by purchasing the LHD–7 in 1995 are greater than the $600 million price tag of the two sealift ships. In fact, we could use those savings to purchase two more sealift ships than the Navy has planned.

Let me say that again. Using the funds now within the Navy POM, the Congress has two choices:

First, delay the LHD–7 and subsequently build only 20 sealift ships, or for the same amount of funding; and

Second, accelerate the LHD–7 and build not 20, but 22 sealift ships.

The financial choice is clear, the LHD–7 option should be exercised this year and the less costly sealift ship option should be allowed to expire.

The last argument presented by the opponents of LHD–7 is schedule. They feel that the delay of these two sealift ships is unacceptable. Well frankly, this argument just doesn't hold water.

First, the two sealift ships are already delayed approximately 5 months due to schedule slippage in the initial two boats. Pushing back the funding for these two ships until next year, will only delay the two ships in question an additional 7 months.

Second, the Navy's sealift program can hardly be described as schedule driven. It takes a shipyard approximately $350 million and 36 months to build a new sealift ship. The other option, doing a conversion of an existing ship, costs only $225 million and takes only 18 months. If the Navy really needed the ships as fast as they could be provided, they could have contracted for more conversions. This would have saved hundreds of millions in taxpayer money as well. But the Navy decided not to build the cheaper ships, and that an 18-month delay in the construction of each ship was acceptable.

By delaying purchase of the two sealift ships until 1996, we push back their completion date until 1999, 7 months behind schedule. If the Navy feels that this is unacceptable, then instead of contracting for two new ships in 1996, they could buy two additional conversion ships which, as I've said, can be built much faster. In fact the Navy could actually accelerate its schedule for fielding sealift ships by buying the LHD–7 in 1995 and two conversion sealift ships in 1996.

In conclusion, I ask my colleagues to remember these key points when making their decision.

First, delaying the two sealift ships and acquiring the LHD–7 will save the Navy and the taxpayer hundreds of millions of dollars. This is because the cost of letting the LHD–7 option expire is seven times larger than the cost of letting the option on the two sealift ships expire.

Second, delaying the two sealift ships will have a negligible impact on the Navy's schedule and the Navy has the option of getting back on schedule by purchasing two more conversion ships in 1996.

Third, the requirement for the LHD–7 is just as valid as the requirement for the sealift ships.

The choice is clear. I, therefore, encourage my fellow senators to join me in defeating this amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent we temporarily lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 1842

(Purpose: To terminate certain Department of Defense reporting requirements)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], proposes an amendment numbered 1842.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, beginning with line 14, strike out all through page 227, line 11, and insert in lieu thereof the following:

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IMMEDIATE TERMINATION.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) APPLICABILITY.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) PRESERVATION OF REQUIREMENTS.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note.)

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report

on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101-189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100-133; 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

Mr. McCAIN. Mr. President, this amendment that I believe is going to be accepted is a very simple one. This amendment calls for the immediate termination of reports that we require the Department of Defense to submit annually to Congress. The Department of Defense identified and reviewed approximately 549 congressionally-mandated reports and produced a list as required, and of that list there was 106 reports that were presented by the Secretary of Defense for termination.

The Senate Armed Services Committee determined that 20 of those reports are necessary and they have been taken out of this list that I am submitting.

As I am sure my colleagues can tell, the focus of the amendment is to eliminate the excessive time and money that is spent on outdated, needless, reports.

An example of some of these reports is we require a report on the debarment of persons convicted of fraudulent use of "made in America" labels. This report was found to be essentially moot since there is no law requiring conviction for the fraudulent use of these labels. We have mandated a report titled "Collator Acquisition." Since all copying and duplicating equipment now come furnished with sorters, I do not think there is any doubt that this report is needless.

The list of unnecessary reports is extensive, but the key criterion for justifying the termination of these reports is descriptions such as "project completed," "redundant requirement," and "obviously could be replaced by internal reports."

You know, I had the privilege and pleasure of getting to know former Secretary of Defense Dick Cheney. Secretary Cheney mentioned to me there were a number of frustrations he experienced that he had very little appreciation for when he went from being a Member of Congress to be Secretary of Defense. One of the most wasteful in his view, and time consuming—and consuming of the taxpayers money—were these reports. There are presently now 549 mandated by the Congress to be submitted by the Department of Defense. We have literally hundreds of employees at the Secretary of Defense's office, in the Pentagon Building, whose only job is to generate these reports.

I believe many of them are necessary and many of them are required in order to keep the Congress apprised of the progress of the Department of Defense in carrying out our requests, orders, authorization, et cetera. But there are many which have been identified—as I say 86 of them—that I think should be removed immediately.

I mentioned a couple of them. Another one is Annual Plant Inventory Report; Jobs Which Exceed JCP Duplicating Limitations; Notice of Intent to Apply New Printing Processes; Collator Acquisition Report, et cetera—which just are not necessary.

Mr. President, if any of my colleagues feel there are any of these that are necessary after the staff of the Senate Armed Services Committee has reviewed them, I would be more than happy, within the next 24 hours or 48 hours—however long before this bill is finished—to put that report back in, eliminate it from this list. I have sent out a "Dear Colleague" to all my colleagues today, listing these reports that are in this amendment to be terminated. I would be more than happy to leave them in if there is any question whatsoever.

So I ask the distinguished managers of the bill if this amendment is acceptable to them? That way I think we can dispense with it in short order.

Mr. President, I ask unanimous consent the list of congressionally mandated reports recommended for termination, and a cover letter from D.O. Cooke, Director of Administration and Management at DOD, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF DEFENSE
Washington, DC, April 29, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Enclosure 1 is the list of recurring Congressionally Mandated Reports recommended for termination by the Department of Defense (DoD) as required by Public Law 103-160, Section F, "Recordkeeping and Reporting Requirements," Section 1151. Enclosure 2 is a list of reports recommended for termination because we were unable to find a DoD sponsor.

Your staff was involved in the early planning stages of this reports review and their participation was greatly appreciated. Overall, 549 Congressionally Mandated Reports were identified, loaded into a system, validated for sponsorship, and sent to the DoD Components for review. As you can see from the results, the Components put a lot of thought and effort into the review, and have recommended 106 reports for termination.

The systematic management of Congressionally Mandated Reports was long overdue and steps have been taken to institutionalize the management of these reports. This includes quarterly updating of the data base using on-line legal searches, validating sponsors, reviewing reporting requirements periodically, and disseminating information about the reports on a regular basis. Thus, in the future, Congressionally Mandated Reports that have outlived their usefulness can be eliminated in a timely manner.

Please let us know if we can be of further assistance in the regard. My point of contact on this effort is Mr. Robert S. Drake, who may be reached at (703) 604-4569.

Sincerely,

D.O. COOKE,
Director.

Enclosures: As stated

CONGRESSIONALLY MANDATED REPORTS RECOMMENDED FOR TERMINATION

Title: Acquisition: Interests in Land When Need is Urgent.

Brief: The Secretary of a military department may acquire any interest in land that—(1) he or his designee determines is needed in the interest of national defense, (2) is required to maintain the operational integrity of a military installation; and (3) considerations of urgency do not permit delay necessary to include the required acquisition in an annual Military Construction Authorization Act. The Secretary of a military department contemplating action under this section shall provide notice, in writing, to the Committees on Armed Services of the Senate and House of Representatives at least 30 days in advance of any action being taken.

Justification for Termination: "Urgent" land acquisition report for ASCs; incompatible with efficient management (the 30-day defeats the statute's "considerations of urgency authority").

Title: Depot Level Reparables (DLR).

Brief: Level of funding and types of spares.

Justification for termination: The requirement for the OP-31 DLR display is found in the DOD financial management regulation (7000.14-R). H.R. 2521 DOD appropriation bill, 1992, Senate appropriations required the Army budget to identify these operating costs. There is no internal Army requirement for this data. This data does not assist the Army in the internal budget process. Therefore, having reviewed this exhibit and the requirement to submit the data, the requirement is unnecessary. If this were a one-time requirement or no longer needed at OSD, OMB, CBO, or the Congress, then the Army recommends termination.

Title: Minority Group Participation in Construction of the Tennessee-Tombigbee Waterway Project.

Brief: The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the states participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway Project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendations for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

Justification for termination: This project has been completed.

Title: Real Property Transactions—Lease of Rental Property by GSA for DOD in Excess of $200,000.

Brief: No element of DOD shall occupy any general purpose space leased for it by the General Services Administration at an annual rental in excess of $200,000 (excluding the cost of utilities and other operation and maintenance services), if the effect of such occupancy is to increase the total amount of such leased space occupied by all elements of DOD, until the expiration of 30 days from the

date upon which a report of the facts concerning the proposed occupancy is submitted to the Committees on Armed Services of the Senate and the House of Representatives.

Justification for termination: Individual reports to ASCs of land actions: Incompatible with efficient management (threshold of $200,000 is .00001% of proposed FY 95 budget) and unnecessary (statute is not an authority; any action must meet another statute's requirements).

Title: Real Property Transactions—Reports to Congressional Committees.

Brief: The Secretary of a military department, or his designee, may not enter into any of the following listed transactions by or for the use of that Department until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and the House of Representatives: (1) an acquisition of fee title to any real property, if the estimated price is more than $200,000; (2) a lease of any real property to the U.S., if the estimated annual rental is more than $200,000; (3) a lease or license of real property owned by the U.S., if the estimated annual fair market rental value of the property is more than $200,000; (4) a transfer of real property owned by the U.S. to another Federal agency or another military department or to a State, if the estimated value is more than $200,000; (5) a report of excess real property owned by the U.S. to a disposal agency, if the estimated value is more than $200,000; and (6) any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the U.S. to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

Justification for termination: Individual reports to ASCs of land actions: Incompatible with efficient management (threshold of $200,000 or .00001% of proposed FY 95 budget) and unnecessary (statute is not an authority; any action must meet another statute's requirements).

Title: Real Property Transactions—Reports to Congressional Committees.

Brief: The Secretary of each military department shall report annually to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than the small purchase threshold under section 2304(g) of this title but not more than $200,000.

Justification for termination: Annual compilation for ASCs of land actions: Incompatible with efficient management (reports actions less than $200,000 or .00001% of proposed FY 95 budget) and unnecessary (statute is not an authority; any action must meet another statute's requirements).

Title: Written Agreement Requirement Regarding Water Resources Projects.

Brief: The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon to Congress. This shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended. Following the date of enactment, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, Chief of Engineers or by a nonfederal interest where such interest will be reimbursed for such construction under the provisions of the Flood Control Act of 1968 or under any other provision of law, shall not be commenced until each nonfederal interest has entered into a written agreement with the Secretary of the Army/COE to furnish its required cooperation for the project. The agreement may reflect that it does not obligate future State legislative appropriations for such performance and payment when obligating future appropriations would be inconsistent with State constitutional or statutory limitations.

Justification for termination: This annual report simply provides the total number executed (according to six types of agreements) and states whether maintenance of any projects has been found to be deficient. However, the inventory requires substantial effort to track agreements, and report relevant data. When this requirement was new Congress was curious as to its effectiveness. However, over 2,000 agreements have been executed since 1972, and Congress has shown no interest in this report. This report has outlived its usefulness.

Title: Administration of Military Construction and Military Family Housing Activities.

Brief: The SECDEF shall submit a report to the appropriate committees of Congress each year with respect to military construction and military family housing activities. Each report shall be submitted at the same time that the annual request for military construction authorization is submitted for that year. Otherwise, information to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

Justification for termination: The report data is available on an as needed basis from each of the services.

Title: Architectural and Engineering Services and Construction Design.

Brief: Within amounts appropriated for military construction and military family housing, the Secretary of the service concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects and family housing projects. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the Armed Forces of the United States are the primary user. In the case of architectural and engineering services and construction design to be undertaken for which the estimated cost exceeds $300,000, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services not less than 21 days before the initial obligation of funds for such services.

Justification for termination: Design and project fees are up since enactment of this requirement. Notification process delays execution.

Title: Biological Defense Research Program—RDT&E Conducted by DOD During Previous Fiscal Year.

Brief: The SECDEF shall submit to Congress an annual report on research, development, test, and evaluation conducted by DOD during the preceding fiscal year for the purposes of biological defense. The report shall be submitted in both classified and unclassified form and shall be submitted each year in conjunction with the submission of the budget to Congress for the next fiscal year.

Justification for termination: Is now covered as a subset to the title 50 report requirement for a comprehensive CB defense report. The title 50 report is a comprehensive report now called the Department of Defense annual report to Congress on the research, development, test and evaluation of the chemical/biological defense program. The information in this report can now be integrated into the newly required CB defense annual report to congress, required by Public Law 103–160, the National Defense Authorization Act for fiscal year 1994, title XVII. Therefore, Atomic Energy recommends integrating the information required by title 10 and title 50, into the new FY 1994 authorization act requirement for a comprehensive annual CB defense report.

Title: Construction—Contingency.

Brief: The SECDEF may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out a project, if the SECDEF determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest. The SECDEF shall submit a report in writing to the appropriate committees of Congress on that decision. Each report shall include the justification for the project and the current estimate of the cost of the project, and the justification for carrying out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by the committees.

Justification for termination: This requirement is redundant. The only difference is in justifying construction and in a 21-day wait period.

Title: Construction Projects for Environmental Response Actions.

Brief: The SECDEF may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department of carry out such a project) if the SECDEF determines that the project is necessary to carry out a response action under the comprehensive environmental response, compensation, and liability act. When a decision is made to carry out a military construction project, the SECDEF shall submit a report, in writing, to the appropriate committees of Congress on that decision. Each report shall include the justification for the project and the current estimate of the cost of the project; and the justification for carrying out the project.

Justification for termination: Environmental cleanup requirements are contained in the annual DOD budget justification material provided with the DOD budget each year. Cleanup requirements are identified in the DERP annual report to Congress required by PL 103–160.

Title: Contracts: Consideration of National Security Objectives.

Brief: If the SECDEF determines that entering into a contract with a firm or a subsidiary of a firm is not inconsistent with the national security objectives of the U.S., the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract. The report shall include the following: (i) the identity of the foreign government concerned; (ii) the nature of the contract; (iii) the extent of ownership or control of the firm or subsidiary concerned or, if appropriate in the

case of a subsidiary, by the foreign government concerned or the agency or instrumentality of such foreign government; and (iv) the reasons for entering into the contract.

Justification for termination: Report was required when SECDEF waived prohibition against awarding contract to firm or controlled by country in support of national terrorism. Report places unwarranted prior restraint on the procurement prerogatives of executive branch of Government because it must be submitted before a contract is awarded.

Title: Core Logistics Functions Waiver.

Brief: The SECDEF may waive in the case of such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB circular A-76. Any such waiver shall be made under regulations prescribed by the SECDEF and shall be based on a determination by the SECDEF that government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether government performance of any such activity or function is no longer required for national defense reasons. A waiver may not take effect until the SECDEF submits a report on the waiver to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

Justification for termination: This reporting requirement is eight years old—is no longer required and should be deleted. PL 100-320, OMB circular A-76 provides proper safeguards for contract conversions.

Title: Debarment of Persons Convicted of Fraudulent Use of "Made in America" Labels.

Brief: If the SECDEF determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the SECDEF shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting with DOD. If the SECDEF determines that the person should not be debarred, the SECDEF shall submit to congress a report on such determination not later than 30 days after the determination is made.

Justification for termination: Recommend termination. Provision is essentially moot since there is no specific law requiring conviction for fraudulent use of "Made in America" labels. DDP will accumulate any reports and make them available when necessary.

Title: Defense Enterprise Programs: Milestone Authorization—Program Deviations.

Brief: If the SECDEF receives a program deviation report under 10 USC 2435(b) with respect to a defense enterprise program for which funds are authorized the SECDEF shall notify the Committee on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the secretary receives such report.

Justification for termination: Defense enterprise programs have not been an effective management tool for the Department. The section 800 report recommends cancellation of this legislation.

Title: Defense Enterprise Programs: Milestone Authorization—Submission of Baseline Descriptions.

Brief: The SECDEF may designate defense enterprise programs in each military department to be considered for milestone authorization. Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description and request, from Congress, authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

Justification for termination: As stated above, all defense enterprise programs should be cancelled. Current acquisition reform activities include and subsume intent of this legislation.

Title: Determination of Availability of Suitable Housing for Acquisition in Lieu of Construction of New Family Housing.

Brief: Before entering into a contract for the construction of family housing units authorized by law to be constructed at a location within the United States, the Secretary concerned shall consult in writing with the Secretary of Housing and Urban Development as to the availability of suitable alternative housing at such location. The Secretary of Housing and Urban Development shall advise the Secretary concerned in writing as to the availability of such housing. If the Secretary of Housing and Urban Development does not advise the Secretary concerned as to the availability of suitable housing within 21 days of the date on which the request for such advice is made, the Secretary concerned may enter into a contract for the proposed construction. If the Secretary concerned and the Secretary of Housing and Urban Development disagree with respect to the availability of suitable alternative housing at any location, the Secretary concerned shall notify the appropriate committees of Congress, in writing, of the disagreement, of the Secretary's decision to proceed with construction, and the justification for proceeding with construction.

Justification for termination: Unnecessary. Can be replaced by internal reports, if needed by DOD.

Title: Elimination of Use of Class I Ozone-Depleting Substances in Certain Military Procurement Contracts.

Brief: No DOD contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official (SAO) for the procurement covered by the contract. The SAO may grant the approval only if the SAO determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available. Each official who grants an approval shall submit to the SECDEF a report on that approval or determination. The SECDEF shall promptly transmit to the Committees on Armed Services of the Senate and House of Representatives each report submitted to him by the SAO. The SECDEF shall transmit the report in classified and unclassified forms.

Note: Beginning on October 1, 1993, and continuing for 8 calendar quarters thereafter, the report will be submitted to the Armed Services Committees not later than 30 days after the end of the quarter. Beginning on January 1, 1997, and continuing for 4 years thereafter, the report will be submitted not later than 30 days after the end of the year.

Justification for termination: The production of halons was phased out in January 1994. Only recycled/reclaimed products may now be procured. Production of class I ozone depleting substances, refrigerants, and solvents will be phased out on January 1, 1996. Report uses a large quantity of DOD resources and provides no useful management tool for DOD or Congress.

Title: Energy Savings at Military Installations.

Brief: The SECDEF shall designate an energy performance goal for DOS for the years 1991 through 2000. The achieve the goal designated, the SECDEF shall develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy savings. The SECDEF shall provide that the selection of energy conservation measures under the plan shall be limited to those with a positive net present value over a period of 10 years or less. The SECDEF shall provide that ⅔ of the portion of the funds appropriated to DOD for a fiscal year (FY) that is equal to the amount of energy cost savings realized by the DOD, including financial benefits resulting from shared energy savings contracts and financial incentives described for any FY, beginning after FY90 shall remain available for obligation through the end of FY following the FY for which the funds were appropriated, with additional authorization or appropriation. The SECDEF shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of DOD as well as the private sector. The SECDEF shall permit and encourage each military department, defense agency, and other instrumentality of DOD to participate in programs conducted by any gas or electric utility for the management of electricity demand or for energy conservation. Not later than December 31 of each year, the SECDEF shall transmit an annual report to congress containing a description of the actions taken to carry out energy savings at military installations and the savings realized from such actions during the FY ending in the year in which the report is made.

Justification for termination: This reporting requirement has been superseded by the Energy Policy Act of 1992 which established conservation goals for the year 2000 and requires annual agency reports to Congress through the Department of Education.

Title: Environmental Restoration Costs for Installation to be closed under 1990 Base Closure Law.

Brief: Each year, at the same time the President submits to Congress the budget for a fiscal year, the SECDEF shall submit to Congress a report on the funding needed for the fiscal year for which the budget is submitted, and for each of the following four fiscal years, for environmental restoration activities at each military installation separately by fiscal year for each military installation.

Justification for termination: Already contained in the Defense Annual Environmental Restoration Program report to Congress required by PL 103-160.

Title: Environmental Restoration Requirements at Military Installations to be closed.

Brief: The SECDEF, after consultation with the Administrator of the Environmental Protection Agency, may extend for a 6-month period of time in which the requirements must be met with respect to a military installation, within the scope of the Federal facility agreement governing cleanup at the installation. The SECDEF submits

to Congress a notification containing a certification that, to the best of the Secretary's knowledge and belief, the requirements cannot be met with respect to the military installation by the applicable deadline because one of the conditions set forth exists; and a period of 30 calendar days after receipt by Congress of such notice has elapsed.

Justification for termination: Status of these installations is contained in the DERP annual report to Congress required by PL 103–160. EPA consultation is obtained by detailed coordination and teamwork between the EPA, state regulators, and DOD in the development of each closing installation's BRAC cleanup plan.

Title: General and Flag Officer Quarters—$25K annual maintenance limit.

Brief: Limit of total repair and maintenance to $25,000/year unless included in budget justification.

Justification for termination: This report can be replaced by an internal report if DOD so deems it necessary.

Title: Improved National Defense Control of Technology Diversions Overseas.

Brief: The SECDEF and the Secretary of Energy shall each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with DOD and the Department of Energy, respectively, that are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding $100,000 in any single year by DOD or the Department of Energy. The SECDEF, the Secretary of Energy, and the Secretary of Commerce shall submit to Congress, by March 31 of each year, beginning in 1994, a report containing a summary and analysis of the information collected for the year covered by the report. The report shall include an analysis of accumulated foreign ownership of U.S. firms engaged in the development of defense critical technologies.

Justification for termination: Recommend termination. Are no existing data bases to identify which contractors are foreign controlled. Will place additional burdens on contractors and DOD.

Title: Improvements to Military Family Housing Units.

Brief: Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (A) $50,000 multiplied by the area of construction cost index as developed by the DOD for the location concerned at the time of contract award, or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index. The Secretary concerned may waive the limitations if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit the improvement will be cost effective, and a period of 21 days elapses after the date on which the Committees on Appropriations of the Senate and of the House of Representatives receive a notice from the Secretary of the proposed waiver together with the economic analysis demonstrating that the improvement will be cost effective.

Justification for termination: This report is unnecessary. Can be replaced by an internal report and is not needed for management purposes.

Title: Improvements to Military Family Housing Units—Construction in Lieu of Improving.

Brief: The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—(A) The improvement of the existing housing units has been authorized by law; (B) The Secretary determines that the improvement project is no longer cost-effective after review of post-design or bid cost estimates; (C) The Secretary submits to the Committees on Armed Forces and Appropriations of the Senate and the House of Representatives a notice containing (i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the Armed Forces in the same paygrade or grades as the members who occupy the existing housing units and (ii) the replacement housing units are intended for members of the Armed Forces in a different pay grade or grades, justification of the need for the replacement housing units based upon the long-term requirements of the Armed Forces in the location concerned.

Justification for termination: This report is unnecessary. Can be replaced by an internal report.

Title: Kinds of Contracts: Multiyear Contract Certification.

Brief: A multiyear contract may not be entered into for any fiscal year for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless each of the following conditions are satisfied: (1) The SECDEF certifies to Congress that the current 5-year defense program fully funds the support costs associated with the multiyear program; and (2) the proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

Justification for termination: Multiyear contracts are more difficult to sustain in post-cold war defense environment where emphasis is being placed on maintaining technology base capabilities. Comptroller must provide a justification package with the budget when any multiyear production contracts are requested. Beyond this requirement, all other reporting requirements associated with multiyear contracts should be terminated.

Title: Leasing—Foreign Leasing Cap Added to Semi-Annual Report.

Brief: Modifies semiannual reports on foreign leasing cap to include a column indicating the prior year's reported cap by location.

Justification for termination: This report is unnecessary. Can be replaced by DOD internal report, if needed for management purposes.

Title: Lobbying Activities Under the Byrd Amendment.

Brief: This report involves lobbying activity, and is provided by A&T.

Justification for termination: Reports on lobbying are currently running less than 10 a year. The reports are forwarded from each activity to the Director of Defense Procurement (DDP), consolidated, and sent to Congress. There is no reason these reports cannot reside at DDP. In addition, the reports being furnished are of little value, the main deterrent to the law being the prohibition on the expenditure of appropriated funds for lobbying. Over the past four years, no questions or queries have been received from Congress on the content of any of these reports.

Title: Long-Term Leasing of Military Family Housing To Be Constructed.

Brief: The Secretary of a military department may enter into a contract for the lease of family housing units to be constructed or rehabilitated to residential use near a military installation within the United States under the Secretary's jurisdiction at which there is a shortage of family housing. The budget material submitted to Congress by the Secretary of Defense shall include materials that identify the military housing projects for which lease contracts are proposed to be entered in such fiscal year.

Justification for termination: This report is unnecessary. It can be replaced by a DOD report, if needed for management purposes.

Title: Low-Rate Initial Production of Naval Vessel and Satellite Programs.

Brief: With respect to naval vessel programs and military satellite programs, low-rate initial production is production of items at the minimum quantity and rate that (a) preserves the mobilization production base for that system, and (b) is feasible as determined pursuant to regulations prescribed by the SECDEF. For each naval vessel program and military satellite program, the SECDEF shall submit to Congress a report providing (a) an explanation of the rate and quantity prescribed for low-rate initial production and the considerations in establishing that rate and quantity; (b) a test and evaluation master plan for that program; and (c) an acquisition strategy for that program approved by the SECDEF, which includes the procurement objectives in terms of total quantity of articles to be procured and annual production rates.

Justification for termination: In today's environment lower rates are being established for many types of environments besides naval vessels and satellites. Test and evaluation master plans and other normal acquisition oversight activities provide effective monitoring and oversight for all major programs. Special treatment for naval vessels and satellites is unnecessary. This reporting equipment should be terminated.

Title: Major Defense Acquisition Program Defined.

Brief: The SECDEF may adjust the amounts (and the base fiscal year) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the secretary transmits a written notification of the adjustment to the committees on armed services of the Senate and House of Representatives.

Justification for termination: This provision was utilized in the most recent update of DOD 5000.1 and DOD 5000.2. Annual reports are unnecessary.

Title: Management of Certain Defense Procurement Programs.

Brief: The SECDEF shall submit to Congress, at the same time as the budget for any fiscal year (FY), a statement of what the effect would be during the FY for which the budget is submitted on the stretchout of a major defense acquisition program if either of the following applies with respect to that program: (1) the final year of procurement scheduled for the program at the time of the statement is submitted is more than 2 years later than the final year of procurement for the program as specified in the most recent annual selected acquisition report for that program; and (2) the proposed procurement quantity proposed for the same FY in the most recent annual selected acquisition report for that program.

Justification for termination: Any necessary information should be included in the SAR (submitted under title 10 USC 2432). No additional report should be necessary.

Title: Manufacturing Technology.

Brief: National MANTECH plan. (class and unclass). SecDef report.

Justification for termination: Report recommended for termination according to 1993 legislation.

Title: Notification of Prime Contract Awards to Comply With Cooperative Agreements.

Brief: The SECDEF shall notify Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract to be awarded to a particular subcontractor to comply with a cooperative agreement. The SECDEF shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

Justification for termination: Recommend termination. Less than a handful have been reported, and all but one part of the Arms Export Control Act. DOD has no need for such information and no one else is monitoring the reports.

Title: Promotion of Energy Savings at Military Installations.

Brief: Decision to carry out a military construction project for energy conservation. SecDef report.

Justification for termination: This is a notification requirement only and could be eliminated.

Title: Relocation of Military Family Housing Units.

Brief: The Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a shortage. A contract to carry out a relocation of military family housing units may not be awarded until (1) the Secretary concerned notifies Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by those committees.

Justification for termination. This report is unnecessary. Can be replaced by DOD report, if needed.

Title: Reporting Requirement—Domestic Leases.

Brief: Details of all new or renewed leases entered into that exceed $12,000, including certification that less expensive housing was not available.

Justification for termination: This report is unnecessary. It can be replaced by a DOD report, if needed.

Title: Requirement for Authorization of Number of Family Housing Units.

Brief: The Secretary of an Armed Force may not construct or acquire military family housing units unless the number of units to be constructed or acquired has been specifically authorized by law. The Secretary of the Armed Force must provide to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and a period of 21 days elapses after the notification is received by those committees.

Justification for termination: This report is unnecessary. Can be replaced by a DOD internal report, if needed.

Title: Reverse Engineering.

Brief: Status on the program's progress.

(The requirement for this report was originated by Congress during the pilot reverse engineering program (1985–1988) to measure its effectiveness and to determine whether a permanent program should be established. The pilot program was successfully concluded in April 1988. Since that time, the services have been reverse engineering items on an as-needed basis, which is the intent. House Report 100–1002, which applauded the results of the pilot program, asked the department to maintain statistics and provide annual reports.

Justification for termination: Reverse engineering has now been recognized and the report has outlived its usefulness. The services maintain statistics for their own use, and if that information is ever required, it could be obtained. The effort required to consolidate this information and process the resultant report to Congress is not commensurate with the value of the report).

Title: Review of Contracts.

Brief: All contracts entered into, amended, or modified pursuant to authority contained in this act shall include a clause to the effect that the comptroller general of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. If the clause is omitted, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served, by the omission of the clause, the agency head will submit a report to Congress in writing.

Justification for termination: Recommend termination. This report is required when agency head determines that public interest would best be served by omitting the clause permitting examination of functional and other records as otherwise required for inclusion in contract where relief has been granted.

Title: Revisions to Contract Claims: Certification Regulations.

Brief: The SECDEF may propose, for inclusion in the Federal acquisition regulation, regulations relating to certification of contract claims, requests for equitable adjustment to contract terms and request for relief under PL 85–804 that exceed $100,000. If at any time the SECDEF proposes revisions to the relations, the SECDEF shall ensure that the proposed revisions are published in the Federal Register and, at the time of publication of such revisions, shall submit to Congress a report describing the proposed revisions and explaining why the regulations should be revised.

Justification for termination: Recommend termination. Any revisions to regulations will be published in the "Federal Register." No value is added to the regulation writing process.

Title: Selected Acquisition Reports for Certain Programs.

Brief: The SECDEF shall submit to the Committees on Armed Services of the Senate and House of Representatives a selected acquisition report for each of the following programs: (1) the advanced technology bomber program; (2) the advanced cruise missile program; and (3) the advanced tactical aircraft program.

Justification for termination: This report may be deleted. The program was terminated by the SECDEF. Selected acquisition report is no longer needed.

Title: Support of Science, Mathematics and Engineering Education—Master Plan.

Brief: At the same time that the President submits to Congress the budget for each of fiscal years 1993 through 1997, the Secretary of Defense shall submit to Congress a master plan for activities by the Department of Defense during the next fiscal year to support education in science, mathematics, and engineering at all levels of education in the United States. Each plan shall be developed in consultation with the Secretary of Education. The activities of the plan shall contribute to the achievement of the national education goals. Each such plan shall (a) define the programs of the military departments and defense agencies and, (b) allocate resources for such programs.

Justification for termination: Requirement for annual report unnecessary because it is overly burdensome and adds no value to DOD SME education efforts. DOD has always had an inherent interest in the SME education of our Nation's students and will continue to develop programs which will enhance the training of our future scientists and engineers.

Title: The Pacific Environmental Leadership Effort (PELE).

Brief: Progress report on implementation of PELE. SECDEF report.

Justification for termination: Will be addressed in the annual report to Congress on the status of the DOD legacy resource management program (Senate Report 103–153, pages 83–84). Recommend deletion.

Title: Waiver of 5-Year Prohibition on Persons Convicted of Defense-Contract Related Felonies.

Brief: A person who is convicted of fraud or any other felony arising out of a contract with DOD shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period as determined by the SECDEF, of not less than 1 year from the date of the conviction. The prohibition may apply with respect to a person for a period of less than 5 years if the SECDEF determines that the 5-year period should be waived in the interest of national security. If the 5-year period is waived, the SECDEF shall submit to Congress a report stating the reasons for the waiver.

Justification for termination: Recommend termination. The requirement is an unnecessary administrative burden. There have not been any requests for waiver. In the event of waiver, information will be maintained at the office of the Director of Procurement.

Title: Waiver on Prohibition on Contracting With Entities That Comply With the Secondary Arab Boycott of Israel.

Brief: It is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person consistent with the policy, DOD may not award a contract for an amount in excess of the small purchase threshold to a foreign entity unless that entity certifies to the SECDEF that it does not comply with the secondary Arab boycott of Israel. The SECDEF may waive the prohibition in specific instances when the SECDEF determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each fiscal year, the SECDEF shall submit to Congress a report identifying each contract for which a waiver was granted during that fiscal year.

Justification for termination: This reporting requirement is an unnecessary administrative burden. Waivers and foreign entity certifications of noncompliance with boycott become part of permanent contract file and can be made available for review at any time.

Title: A-10s for the U.S. Forest Service—Reasons for Dissatisfaction.

Brief: Reasons for dissatisfaction with the Forest Service plans to ensure A-10s will not be obtained by a foreign government.

Justification for termination: The U.S. Forest Service is no longer interested in acquiring these aircraft.

Title: A-10s to U.S. Forest Service—Excess to Air Force needs.

Brief: A-10 are excess to Air Force needs.

Justification for termination: The U.S. Forest Service is no longer interested in acquiring these aircraft.

Title: Activation or Moving a Printing Plant.

Brief: JCP requires their authorization before establishing or moving printing plants.

Justification for termination: Include in printing program plan.

Title: Annual Map and/or Chart Plant Report.

Brief: JCP form 4 reports map and chart printing plant operating costs and production.

Justification for termination: Include in printing program plan.

Title: Annual Plant Inventory.

Brief: JCP form 5 reports the inventory of printing equipment in each printing plant.

Justification for termination: Include in printing program plan.

Title: Coal—Kaiserslautern Military Community.

Brief: Progress made toward agreements on the use of U.S. anthracite coal.

Justification for termination: This reporting requirement was levied because of Congress' concern that the Air Force would not actively pursue heating supply agreements with local German authorities in Kaiserslautern. Since obtaining sole source authority, we have pressed hard to complete negotiations, as indicated in quarterly reports submitted to date. We have demonstrated our willingness to complete cost effective agreements and a quarterly progress report is no longer necessary. Also, if negotiations are successful, we are required to formally notify Congress prior to contract award.

Title: Collator Acquisition.

Brief: JCP form 3 reports acquisition of power operated collators for use in other than authorized printing plants.

Justification for termination: Copying and duplicating equipment now come furnished with sorters.

Title: Commercial Printing.

Brief: JCP form 2 reports printing procured from commercial sources other than the Government Printing Office or its contractors.

Justification for termination: Include in printing program plan.

Title: Equipment Acquisition or Transfer.

Brief: JCP requires their authorization before acquiring or transferring printing equipment.

Justification for termination: Set capacity and allow managers to move or acquire equipment up to capacity.

Title: Equipment Installation Notice.

Brief: JCP requires notification before the installation of new equipment.

Justification for termination: Include in printing program plan.

Title: Excess Equipment.

Brief: JCP form 7 reports the inventory of excess equipment in each printing plant. (An annual submission of this report also occurs).

Justification for termination: Include in annual plant inventory in printing program plan.

Title: Jobs Which Exceed JCP Duplicating Limitations.

Brief: Consolidated duplicating center and facilities report jobs which exceed limitations imposed by the JCP.

Justification for termination: Include in printing program plan.

Title: Notice of Intent to Apply New Printing Processes.

Brief: JCP requires notification before utilizing newly developed or improved processes.

Justification for termination: Include in printing program plan.

Title: Notice of Intent to Contract Printing Services.

Brief: JCP requires notification before including printing in services contracts.

Justification for termination: Include in printing program plan.

Title: Printing Plant Report.

Brief: JCP form 1 reports printing plant operating costs and production.

Justification for termination: Include in printing program plan.

Title: Research and Development Plans.

Brief: JCP requires advisement of plans to engage in applied research or development affecting printing or related fields.

Justification for termination: Include in printing program plan.

Title: Stored Equipment.

Brief: JCP form 6 reports the inventory of stored printing equipment in each printing plant.

Justification for termination: Include in annual plant inventory in printing program plan.

Title: Annual Authorization of Appropriations—O&M Funds Restriction in Support of Democratic Resistance of Nicaragua.

Brief: Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces of Nicaragua. Funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition). Before funds appropriated or otherwise made available to the DOD are released to be used for the purpose stated, the SECDEF shall submit a report to Congress describing the specific source of such funds.

Justification for termination: The Nicaraguan democratic resistance is no longer in operation.

Title: Burdensharing Contributions by Japan.

Brief: Contributions accepted.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Burdensharing Contributions by Japan and the Republic of Korea.

Brief: Amount of contributions accepted and expended. SecDef report.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Burdensharing Contributions by Korea.

Brief: Contributions received. SecDef report.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Burdensharing Contributions by Kuwait.

Brief: Contributions made, and explanation of the relationship between any "out-of-country" costs and "in-country" US military activities they support.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Closing Accounts—Obligations and Adjustment to Obligations.

Brief: Certification by the SECDEF to the Congress (1) that the limitations on expending and obligating amounts established pursuant to 31 USC 1341 are being observed, (2) that reports on any violations of such section, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by 31 USC 1351. If the SECDEF cannot make the certification within 60 days the SECDEF must alternatively certify to Congress in writing that the SECDEF is unable to make the report setting forth the actions that the Secretary will take in order to make such certifications after the end of the period.

Justification for termination: This report was completed on January 1993.

Title: Operations of DOD Overseas Military Facility Investments Recovery Account.

Brief: Not later than January 15 of each year, the SECDEF shall submit to the congressional defense committees a report on the operations of DOD overseas military facility investment recovery account during the preceding fiscal year and proposed uses of funds in the special account during the next fiscal year.

Justification for termination: Should be included in the quarterly report to Congress on the status of residence value negotiations prepared by ODUSD (ES). The comptroller would have collateral action and coordinate on the report.

Title: Preparation of Budget Requests for Operation of Professional Military Education Schools.

Brief: Separate budget request for operation of each professional military education school.

Justification for termination: Nobody has requested the report in two years.

Title: Industrial Fund Management Reports.

Brief: The Department of Defense has five industrial funds. They are as follows: Navy industrial fund, Marine Corps Industrial Fund, Army Industrial Fund, Air Force Industrial Fund, and Defense Industrial Fund. Combined reports are required for each industrial fund accompanied by supporting reports by activity group. The term "activity group" is used herein to mean any number of activities financed under an industrial fund having similar missions or operating characteristics. It is required that annual reports be submitted to the president and to the Congress on the condition and operation of working-capital funds established under 10 USC 2208. The reporting requirements prescribed herein are designated as accounting report 1307.

Justification for termination: These reports no longer exist in DOD. Recommend termination.

Title: Reports on Price and Availability Estimates.

Brief: NLT fifteen days after the end of each calendar quarter submit a report on price and availability; LOA requests for $7M or more of MDE, $25M or more of defense articles or services or for air-to-ground/ground-to-air missiles.

Justification for termination: This report is redundant. The provision for this report requires reporting of potential foreign military sales which may or may not result in

actual sales. Sales offers to foreign purchasers as well as actual sales are being reported in a broader scope at the $1 million threshold on a quarterly basis, as required by section 36(a) of the Arms Export Control Act, 22 USC 2765.

Title: Employees or Former Employees of Defense Contractors.

Brief: If a former or retired officer of the Army, Navy, Air Force, or Marine Corps who (1) has at least 10 years of active service, and (2) held for any period during that service a grade above captain or, if Navy, above lieutenant; and a former civilian official or employee (including a consultant or part-time employee) of DOD whose pay rate (at any time during the 3-year period before end of the last service of the person with DOD) was at least equal to the minimum rate at the time for GS–13, was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a year at an annual pay rate of at least $25,000 and the defense contractor was awarded contracts by DOD during the preceding year that totaled at least $10,000,000, and within the 2-year period ending on the day before the person began the employment or consulting relationship, the person served on active duty or was a civilian employee for DOD, the person shall file or report with the SECDEF in the manner and form prescribed by the SECDEF. Before April 1 of each year, the SECDEF shall report to Congress the names of persons who have filed reports for the preceding year and the names shall be listed, by groups, under the names of appropriate defense contractors.

Justification for termination: Since the requirement for this report was enacted in November of 1969, there have been other laws passed which address the identical concerns. These included the Ethics in Government Act of 1978 (Public Law No. 95–521) and the Ethics Reform Act of 1989 (Public Law No. 101–194). These laws imposed stringent new "revolving door" restrictions on the entire executive branch. In addition, new post-government restrictions were imposed on departing DOD officers and employees by section 2397b of Title 10 United States Code in 1989. These additional restrictions have made this report lose any value that it may have had.

Title: Requirement Concerning Former DOD Officials.

Brief: Any contractor, that was awarded one or more contracts by DOD during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to contract provision shall submit to the SECDEF, not later than April 1 of the next year, a written report covering the preceding calendar years. Each report shall list the name of each person (together with other information adequate for the Government to identify the person) Who: (1) is a former officer or employee of DOD or a former or retired member of the Armed Forces; and (2) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within 2 years after such officer, employee, or member left service in DOD. The SECDEF shall make reports submitted under this requirement available to any member of Congress upon request.

Justification for termination: The report required of defense contractors by this law was intended to identify former DOD officers and employees who may be tempted to misuse sensitive procurement information that they had acquired while serving in DOD. This problem has been completely resolved by the Procurement Integrity Act (Public Law 100–679). In addition, implementation of the reporting requirement obligates all major DOD contractors to set up more complex personnel information systems than required for their own management purposes. Inevitably, the added costs of such internal systems must be born by the Department of Defense in terms of higher costs for goods and services.

Title: Health-Care Sharing Agreements Between Department of Veterans Affairs and Department of Defense.

Brief: For each of fiscal years (FYs) 1993 through 1996 the SECDEF shall submit a report on opportunities for greater sharing of the health care resources of the Veterans Administration and DOD which would be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and under use of health care resources. The FY 1996 report will also include—(1) an assessment of the effect of agreements entered into on the delivery of health care to eligible veterans, (2) an assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members, and beneficiaries, and (3) any plans for administrative action, and any recommendations for legislation, that the SECDEF considers appropriate.

Justification for termination: P.L. 97–174 requires the secretaries of the Departments of Veterans Affairs and Defense to submit a joint annual report to Congress on the status of health care resources sharing. After careful review of the reporting requirements of Congress, recommend combining this report wit the report entitled "Sharing of Department of Defense Health-Care Resources." Combining these reports will avoid redundancy and allow for a succinct review of health care resources sharing activity between the departments.

Title: Limitation on Reductions in Medical Personnel.

Brief: The SECDEF may not reduce the number of medical personnel of DOD below the baseline number unless the SECDEF certifies to Congress that the number of such personnel being reduced is excess to the current and projected needs of the military departments; and such reduction will not result in an increase in the cost of health care services provided under the civilian health and medical program of the uniformed services.

Justification of termination: Alternative mechanisms are being developed to backfill DOD needs. Manpower flexibility to retain sufficient military personnel by specialty and grade/experience to meet any wartime or contingency mission; to retain, hire or recruit military or civilian service personnel to meet peacetime health care needs, and to contract, where appropriate, to provide beneficiaries with needed health care services. Allowing DOD to tailor the force based on the needs of the population served is the most efficient and cost-effective method of providing health care.

Title: Podiatrists and Dentists.

Brief: Need for any reductions.

Justification for termination: This report is not required for force management purposes.

Title: Psychologists Prescribing Drugs.

Brief: Test program to train military psychologists to prescribe psychoactive drugs.

Justification for termination: The report on the first fellows to complete the program will be submitted in May or June 1994. This report will satisfy this requirement.

Title: Public Health Service Hospitals.

Brief: The SECDEF, in consultation with the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy, shall submit annually to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a written report on the results of the studies and projects carried out. The first such report shall be submitted not later than one year after the date of enactment. The last report shall be submitted not later than one year after the completion of all such studies and projects.

Justification for termination: Assessment reports completed in the 1980s. No such studies and projects are underway or planned.

Title: Reductions in Army Reserve Component Medical Force Structure.

Brief: Reiterates FY91 requirement (101–923, p. 102, Sec. 711) that medical personnel are excess to current and projected requirements and will not result in an increase in CHAMPUS costs. SECDEF report.

Justification for termination: This report is not required for force management purposes.

Title: Special Pay to Officers of the Armed Forces Who Served in a Nursing Specialty.

Brief: The SECDEF may extend the special pay authorized to officers of the Armed Forces who serve in a nursing specialty (other than as nurse anesthetists) that—(A) is designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and (B) requires postbaccalaureate education and training. The SECDEF may not implement these provisions unless the SECDEF submits to the Committees on Armed Services of the Senate and House of Representatives a report—(1) justifying the need of the departments for the authority provided; and (2) describing the manner in which that authority will be implemented.

Justification for termination: This report is not required for force management purposes.

Title: Special Pay: Nonphysician Health Care Providers.

Brief: The Secretary of Defense may authorize the payment of special pay at the rates specified to an officer who—(1) is an officer in the Medical Services Corps of the Army or Navy, a biomedical sciences officer in the Air Force, or an officer in the Army Medical Specialist Corps; (2) is a health care provider (other than a psychologist); (3) has a postbaccalaureate degree; and (4) is certified by a professional board in the officer's speciality. The SECDEF may not implement these provisions unless the SECDEF submits to the Committees on Armed Services of the Senate and House of Representatives a report—(1) justifying the need for the military departments for the authority provided; and (2) describing the manner in which that authority will be implemented.

Justification for termination: This report is not required for force management purposes.

Title: Contracts: Notice to Congress Required for Contracts Performed Over period Exceeding 10 years.

Brief: The Secretary of a military department shall submit to Congress a notice with respect to a contract of that military department for services for research or development in any case in which—(1) the contract is awarded or modified, and the contract is

expected, at the time of award or as a result of the modification to be performed over a period exceeding 10 years or (2) the performance of the contract continues for a period exceeding ten years and no other notice has been provided to Congress.

Justification for termination: There are few, if any, contracts for services for research and development which extend over 10 years.

Title: Fuel Sources for Heating Systems; Prohibition on Converting Certain Heating Facilities.

Brief: The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of that system. The Secretary of a military department may not covert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—(1) determines that the conversion is required by the government of the country in which the facility is located, or is cost effective over the life cycle of the facility; and (2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.

Justification for termination: The language directing the use of the least life cycle cost fuel should be retained. Since conversions from coal will be done only if they meet the least life cycle cost requirement, congressional notification should not be required.

Title: Monitoring and Research of Ecological Effects.

Brief: Regarding estuarine monitoring, the Secretary of the Navy, in consultation with the under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this act (enacted June 11, 1988). The administrator shall submit a report annually to the Speaker of the House of Representatives and to the President of the Senate detailing the results of such a monitoring program for the preceding year. As such, the Secretary shall submit a report annually to the Secretary and to the Governor of each State in which a home port for the Navy is monitored detailing the results of such monitoring in the State. Regarding home port monitoring, the Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such water.

Justification for termination: The Navy currently has fewer than six ships organotin coatings. By the end of FY 1994, only two ships with organotin coatings will remain in the fleet. Current Navy policy does not allow use of organotin coatings. By FY 1998 no ships will have organotin coating. With organotin use going to zero, this report can be terminated.

Title: Mississippi-Camp Shelby-Land Transfer

Brief: Proposals concerning land acquisition at Camp Shelby.

Justification for termination: Proposed land exchange between army and forest service has been abandoned.

Title: Professional Military Education Center, TN.

Brief: Outline why this project was left out of the FY93 request and provide a written commitment that the project will be included in FY94 request.

Justification for termination: This report has been overtaken by events.

Title: National Security Agency—Report on Executive Personnel.

Brief: The director of the National Security Agency (NSA) shall each year submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the budget is submitted by the President to Congress for the next FY, a report on executive personnel in NSA. The report shall include the following: The total number of positions added to or deleted from the senior cryptologic executive service during the preceding FY; the number of executive personnel (including all members of the senior cryptologic executive service) being paid at each grade level and pay rate in effect at the end of the preceding FY; the number, distribution, and amount of awards paid to members of the senior cryptologic executive service during the preceding FY; and the number of individuals removed from the senior cryptologic executive service during the preceding FY for less than fully successful performance.

Justification for termination. This report duplicates the report entitled "National Security Personnel."

Justification for termination: This report entitled "National Security Personnel."

Title: Civilian Employment Master Plan.

Brief: The Secretary will prepare an annual civilian employment master plan to be submitted annually with budget materials.

Justification for termination: Title 10 requires that the Department of Defense submit a report on civilian employment annually along with budget materials. The report is to cover the budget year, the prior two years and the two years following the budget year (five year plan). The requirements of the report, as specified in 10 USC, exceed the level of detail used in DOD planning. The civilian work force is an open personnel system and not rigidly structured like the military personnel system. Also, civilians are a valued "resource" used to support essential DOD missions, but civilians are not a structured "program" managed in divisions, carrier groups and wings. Overall projected levels of employment, and other broad brush information, are provided to Congress through other means (O&M Justification Materials and the Defense Manpower Requirements Report).

Title: Closure of Military Child Development Centers for Uncorrected Inspection Violations.

Brief: The SECDEF requires that each military child development center be inspected not less than four times a year. Each such inspection will be unannounced. At least one inspection shall be carried out by an installation representative and one inspection a year by a representative of the major command. If a violation occurs and is not corrected within 90 days the military child development center shall be closed until the violation has been corrected. If a military child development center is closed the Secretary of the military department concerned shall promptly submit to the Committees of the Armed Services of the Senate and the House of Representative a report notifying those committees of the closing. The report shall include—(A) notice of the violation that resulted in the closing and the cost of remedying the violation; and, (B) a statement of the reasons why the violation had not been remedied as of the time of the report.

Justification for termination: OSD and the military departments have implemented a rigorous unannounced inspection process that includes a checks and balance system with inspections conducted at the installation, major command, service and DOD levels. Each child development center receives comprehensive inspections at least four times each year. These are in addition to the local fire, health and safety (HAS) inspections. Each installation is inspected annually by service has experts in child development. Additionally, a DOD multi-disciplinary team inspects random installations each year to check the military services inspection procedures. Although several centers were closed during the implementation phase of the inspections, extensive efforts to correct deficiencies have reduced the number of serious violations dramatically. The DOD inspection procedures are aggressive and a model for the country. These procedures address serious deficiencies, and the report requirement is no longer necessary.

Title: Educational Assistance Program.

Brief: Breakout of the costs associated with Montgomery GI Bill.

Justification for termination: Report 102-627 for the fiscal year 1993 appropriations bill asked that the Department of Defense report back to the committee with a cost breakout of the benefit, so they could entertain any reprogramming requests. However, the Department of Defense education benefits board of actuaries decided to post-fund that part of the benefit that was not paid for by the Department of Veterans Affairs. In effect, this means that funds would be borrowed from the Department of Defense education benefit fund and later reimbursed as amortization payments to the fund. The amortization payments would be included in the budget. Consequently, no special reprogramming or supplemental requests would be needed. As a consequence, there is no ongoing reporting requirement other than the normal budget process.

Title: Exceptions to Guidelines for Reductions in Civilian Positions.

Brief: The SECDEF may permit a variation from the guidelines established or a master plan prepared if the Secretary determines that such variation is critical to the national security. The Secretary shall notify Congress of any such variation and the reasons for such variation.

Justification for termination: Title 10 requires that the Department of Defense submit a report on civilian employment annually along with budget materials. The report is to cover the budget year, the prior two years and the two years following the budget year (five year plan). The requirements of the report, as specified in 10 USC, exceed the level of detail used in DOD planning. The civilian work force is an open personnel system and not rigidly structured like the military personnel system. Also, civilians are a valued "resource" used to support essential DOD missions, but civilians are not a structured "program" managed in divisions—carrier groups and wings. Overall projected levels of employment, and other board brush information, are provided to Congress through other means (O&M justification materials and the defense manpower requirements report).

Title: Foreign National Employees Salary Increases.

Brief: Notify Congress when salary increases of foreign national employees exceed certain thresholds.

Justification for termination: Section 1584 (b) of title 10 United States Code requires the report to Congress where we exceed certain salary amounts for foreign national employees. However, continuing annual appropriations acts have have limited these payments. As a result, the report to Congress has never been necessary. In practice, the reporting requirement is and should continue to be academic.

Title: Involuntary Reductions of Civilian Positions.

Brief: The SECDEF may not implement any involuntary reduction or furlough of civilian positions in a military department, defense agency, or other component of DOD until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reductions or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furlough.

Justification for termination: DOD already has in place (DODD 5410.10) procedures to notify Congress of involuntary reductions affecting 50 or more federal civilian employees or 100 or more contractor employees. This requirement to notify Congress, no matter how few employees are affected, could impose an administrative burden that would have a harsh impact on each of the services.

Title: Military Pay and Allowances.

Brief: This is an annual report on how military pay and allowances are doing relative to private wages and salaries.

Justification for termination: The pay adequacy report, required on an annual basis by 37 USC 1008(a), was mandated in an era where there was no regular annual military pay raise. The information in this report would provide information on a number of indicators, and when it was determined that an annual pay raise was needed it would be requested. That has changed. Current law (P.L. 101–509) pegs military pay raises to the employment cost index. Pay raises are annual and are based upon changes in private sector wages and salaries for the average worker. The information contained in the pay adequacy report is no longer needed and media coverage of the index itself is widespread.

Title: Military Relocation Assistance Programs.

Brief: Not later than March 1 each year, the Secretary of Defense, acting through the Director of Military Relocation Assistance programs, shall submit to Congress a report on the Military Relocation Assistance program. The report shall include the following: (1) an assessment of available, affordable private-sector housing for members of the Armed Forces and their families; (2) an assessment of the actual nonreimbursed costs incurred by members of the Armed Forces and their families who are ordered to make a change of permanent station; (3) information on the types of locations at which members of the Armed Forces assigned to duty at military installations live, including the number of members of the Armed Forces who live on a military installation and the number of those who do not; and (4) information on the effects of the relocation assistance programs established under this program on the quality of life of members of the Armed Forces and their families and on retention and productivity of members of the Armed Forces.

Justification for termination: The Department has met all the requirements of 10 USC, section 1056(f) on relocation assistance and specific information dealing with relocation can be made available, as needed by the Congress or other outside sources. Submitting specific responses as needed is more efficient and cost-effective in terms of manpower resources. For these reasons, recommend that the annual relocation assistance report be terminated.

Title: Pay Raise Allocations.

Brief: Report owed with quadriennial review of military compensation when president decides not to give equal percentage pay raise to all military members.

Justification for termination: This report is due from the quadrennial review group only when there is a reallocation of the basic pay raise. This rarely happens; when it does, it would not appear useful to require that such a fact be reviewed and reported by a quadrennial review group that meets every fourth year.

Title: Travel and Transportation Allowances; Dependents; Baggage and Household Effects.

Brief: The SECDEF shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report at the end of each fiscal year stating (1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents; and (2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive allowances or transportation.

Justification for termination: Neither OSD nor the services have ever submitted such reports, insofar as we can determine. We are skeptical of the interest this report holds for Congress; therefore, this is a good candidate for discontinuance.

Title: U.S. Government Data Base on NATO and Warsaw Pact Forces and Equipment.

Brief: The Defense Authorization Act of 1989 required the President to submit to Congress annually on December 1 both classified and unclassified data bases of NATO and Warsaw Pact forces and equipment. The task of preparing these documents was assigned by the Secretary of Defense to the Net Assessment Coordinating Committee (NACC), which the Under Secretary of Defense for Policy (USDP) and the Director of the Joint Staff co-chaired. PA&E took on the task of assembling data and applying common counting rules. Classified and unclassified documents entitled "U.S. Government Data Base of NATO and Warsaw Pact Forces and Equipment" were produced in 1988 and 1989 showing data at the end of 1987 and 1988, respectively. (The 1988 versions were not released by the President until June of 1990 when he released the 1989 versions).

In September 1990, PA&E initiated preparation of the documents for 1990. Data on U.S. and non-U.S. NATO forces and on Warsaw Pact air and naval forces were assembled fairly promptly, but ground threat data were delayed due to the demands of the CFE data exchange. Although PA&E continued to work with the intelligence community throughout the early summer of 1991, rapid changes within the former Soviet Union precluded providing certain data at the level of detail of earlier documents. At that point, PA&E put the project aside for higher priority work.

Justification for termination: The Defense Authorization Act for 1989 required the President to submit to Congress annually on 1 December classified and unclassified date bases of NATO and Warsaw Pact Forces and Equipment. The Secretary of Defense was asked to prepare the report.

Documents entitled "U.S. Government Data Base of NATO and Warsaw Pact Forces and Equipment" were submitted for 1988 and 1989. During preparation of the report for 1990, rapid change within the former Warsaw Pact precluded acquisition of meaningful data. Since that time, the Warsaw Pact has been terminated; the Soviet Union has been dissolved; and NATO no longer faces a threat of invasion. Data on forces and equipment are now made available by all relevant nations under the Conventional Forces Treaty (CFE) treaty.

Title: DoD Offset Policy—Negotiations.

Brief: Progress of negotiations.

Justification for termination: This report is no longer needed.

Title: Panama Canal Administration.

Brief: Report to Congress regarding the following: (1) The condition on the Panama Canal and potential adverse effects on United States shipping and commerce; (2) the effect on canal operations of the military forces under General Noriega; and (3) the commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal treaties.

Justification for termination: The report has been overtaken by events and should be discontinued.

Title: Source of Funds—Other Issues.

Brief: Construction or engineering activity funded from any DoD sources in Zaire or Central America.

Justification for termination: Zaire is overtaken by events. El Salvador is overtaken by events. Therefore, the report should be terminated.

Title: Special Operations Advanced Technology Development.

Brief: Progress of the Mark-V.

Justification for termination: Program well advanced. Procurement Contract will be awarded this fiscal year. Staff members concur in release from reporting requirements.

Title: Special Operations Forces—Program Management.

Brief: Status on ASDS and Mark V: Joint Mission Analysis.

Justification for termination: This report is a duplicate requirement cited in Public Law 102–408. (Mark V).

CONGRESSIONALLY MANDATED REPORTS
UNIDENTIFIED SPONSOR LISTING

Title: Contributions for North Atlantic Treaty Organization Infrastructure.

Brief: The SECDEF may make contributions for the U.S. share of the cost of multilateral programs for the acquisition and construction of military facilities and installations (including international military headquarters and for related expenses) for the collective defense of the North Atlantic Treaty area. Funds may not be obligated or expended in connection with the North Atlantic Treaty Organization infrastructure program in any year unless funds have been authorized by law for the program. If the SECDEF determines that the amount appropriated for contribution in any fiscal year must be exceeded by more than the amount authorized, the SECDEF may make contributions in excess of such amount, but not in excess of 125 percent of the amount appropriated after submitting a report, in writing,

to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of the funds to be used for the increase, and after a period of 21 days has elapsed from the date of receipt of the report.

Remarks: Not claimed by POL or A&T.

Title: International Nonproliferation Initiative—Proposed Obligations and Forms of Assistance.

Brief: Proposed obligations and forms of assistance. SecDef report.

Remarks: Not Claimed by POL or COMP.

Title: Participation of Developing Countries in Combined Exercises: Payment of Incremental Expenses.

Brief: The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing (1) a list of the developing countries for which expenses have been paid by the United States during the preceding year; and (2) the amounts expended on behalf of each government.

Remarks: Not claimed by POL or JS.

Title: Requirement for Authorization by Law of Certain Contracts Relating to Vessels and Aircraft.

Brief: The Secretary of a military department make a contract that is an agreement to lease or charter or an agreement to provide services and that is (or will be) accompanied by a contract for the actual lease, charter, or provision of services if the contract for the actual lease, charter, or provision of services is (or will be) a contract which will be a long-term lease or charter; or the terms of the contract provided for a substantial termination liability on the part of the U.S. The Secretary has been specifically authorized by law to make the contract; before a solicitation for proposals for the contract was issued the Secretary notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the Secretary's intention to issue such a solicitation; and the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed contract and provided a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than providing for the lease, charter, or services involved through purchase of the vessel or aircraft to be used under the contract, and a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees.

Remarks: Referral to the military departments recommended by A&T.

Title: SSBN Security Technology Program.

Brief: Specific technologies which are to be assessed and whether unresolved policy issues have been settled. SecDef report.

Remarks: Not addressed in any legislation, and not claimed by POL or A&T.

Title: Support for Peacekeeping Activities.

Brief: Proposed obligation, forms of assistance, and certification. SecDef report.

Remarks: Not claimed by POL or COMP.

Title: Training with Friendly Foreign Force.

Brief: Not later than April 1 of each year, the SECDEF shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid by the U.S. Each report shall specify—(1) all countries in which that training was conducted; (2) the type of training conducted, including whether such training was related to counter-narcotics or counter-terrorism activities, the duration of that training, the number of the Armed Forces involved, and expenses paid; (3) the extent of participation by foreign military forces, including the number and service affiliation of foreign military personnel involved and physical and financial contribution of each host nation to the training effort; and (4) the relationship of that training to other overseas training programs conducted by the Armed Forces.

Remarks: Not claimed by P&R, SOLIC, or JS.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, this is an amendment we have worked on with the Senator from Arizona. As I understand it—correct me if I am in any way misinterpreting it—it would terminate certain Defense Department reporting requirements upon enactment of this authorization bill—that is by enactment rather than October 30, 1995. These are reports that are excess, not needed, that will reduce paperwork, reduce bureaucracy, and save money.

If I am correct in my assumption on this amendment I certainly urge its adoption.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1842) was agreed to.

Mr. MCCAIN. I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—S. 2182

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that Jack Kennedy, a legislative fellow on my staff, be granted the privilege of the floor during debate on S. 2182.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1843, 1844, 1845, 1846, 1847, AND 1848 EN BLOC

Mr. SMITH. Mr. President, on behalf of myself, Senator KERRY of Massachusetts, Senator DOLE, Senator MCCAIN, Senator CONRAD, Senator WOFFORD, Senator LOTT, Senator HELMS, Senator GRASSLEY, and Senator THURMOND, I send to the desk six amendments and ask that they be considered en bloc. I ask for their immediate consideration.

The PRESIDING OFFICER. The Johnston-Feinstein amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for himself, Mr. KERRY, Mr. DOLE, Mr. MCCAIN, Mr. CONRAD, Mr. WOFFORD, Mr. LOTT, Mr. HELMS, Mr. GRASSLEY, and Mr. THURMOND, proposes en bloc amendments numbered 1843–1848.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1843

(Purpose: To require disclosure of information concerning unaccounted for United States personnel from the Korean conflict, the Vietnam era, and the cold war)

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

AMENDMENT NO. 1844

In title X, insert the following new section:

SEC. . REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files, and other materials pertaining to the personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such documents, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified form documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

AMENDMENT NO. 1845

In title X, insert the following new section:

SEC. . REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based primarily on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) RECOMMENDATIONS REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons: and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

AMENDMENT NO. 1846

In title X, insert the following new section:

SEC. . CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict."

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

AMENDMENT NO. 1847

(Purpose: To require the Secretary of Defense to submit to Congress certain information concerning unaccounted for United States personnel of the Vietnam conflict)

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

AMENDMENT NO. 1848

In title X, insert the following new section:

Sec. . REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

The PRESIDING OFFICER. Is there any objection to the Senate handling these amendments en bloc?

Without objection, it is so ordered.

Mr. SMITH. Mr. President, each of the six amendments that I have sent to the desk concerns the issue of American personnel still unaccounted for from past conflicts, to include the Korean war and the cold war, as well as Vietnam.

As my colleagues will recall, in January 1993, the Senate Select Committee on POW–MIA Affairs published its final report which contained several recommendations for followup. We stated in our report that to the extent there remain matters to be pursued, that we would ensure that they, indeed, were pursued.

This is really the basis of these six amendments. I want to say at the outset that I appreciate the cooperation of Senator JOHN KERRY, who was the chairman of that committee, and Senator NUNN and staff, Senator THURMOND, Senator MCCAIN, and others who have worked with me in a cooperative way to work these amendments out so that they could be approved.

As the former vice chairman of that committee, I am today offering these amendments because I believe there are still some items that need to be pursued as we try to bring closure to this issue and, basically, to determine the fate of those who are still missing.

I am pleased that Senators KERRY and MCCAIN especially saw fit to join, as well as Senators GRASSLEY and HELMS, who were also on the select committee with me.

I understand there are no objections to the amendments by the chairman or the ranking member. At least, that is my understanding. So I am going to make a few brief comments on each of the amendments and will not be asking for the yeas and nays on this side.

For the benefit of my colleagues, I would like to start with the first amendment which amends section 1082 of the fiscal year 1992-93 Defense Department Authorization Act mandating the declassification of Vietnam-era POW-MIA records to include the Korean war and cold war POW-MIA records.

This amendment applies only to Defense Department records, to include those at the National Archives for which DOD is the originating agency. The National Archives might be surprised to hear estimates that there are up to 20,000 classified documents—not pages, but classified documents—pertaining to Korean war POW-MIA's alone. Estimates on classified POW-MIA-related information on the cold war are not available, although there are 130 individuals unaccounted for as a result of cold war incidents.

According to DOD, some 670,000 pages of Vietnam-era POW/MIA documents were declassified in 1992 and 1993 under the fiscal year 1992-93 DOD Authorization Act. This amendment requires DOD to declassify roughly 20,000 pages of Korean war POW records during fiscal year 1995, in addition to any cold war POW-MIA records that are still classified.

The Senate Armed Services Committee has already adopted language requiring DOD to assist any Korean war POW-MIA families trying to locate information on their loved ones, whether it is in classified or unclassified form.

My amendment, No. 1, ensures that all DOD's POW-MIA records are processed for declassification under the same procedures set forth with the fiscal 1992-1993 DOD authorization language on the Vietnam-era records. I thank Senator MCCAIN for his continuing efforts on these issues over the years as he has worked on this same subject.

In amendment number two, this amendment requires the Secretary of Defense to certify to Congress within 60 days that a copy of all DOD Vietnam-era POW-MIA-related documents covered by Senate Resolution 324 of July 2, 1992, and President Bush's Executive order of July 22, 1992, have been declassified as they were supposed to be and deposited in the Library of Congress. If there are documents found that have not been declassified, then they should be immediately declassified in accordance with the Executive order. It is just a check through the system to be sure that nothing was missed.

In short, Mr. President, I have personally been involved with instances, including just last month, ironically, where a POW-MIA family learned that there was classified information in their file involving documents that they had never seen before. You can imagine the surprise and dismay, and whatever, at seeing documents that they did not know were there on a missing loved one. As a result of their persistent efforts, the documents, I am told, are now being declassified and provided to the family.

Bear in mind, this is some 6 months after our current President stated on Veterans Day that all Vietnam-era documents on POW's had been declassified. This amendment will simply ensure that this is done; that is, the Secretary of Defense and the new Deputy Assistant Secretary of Defense for POW-MIA Affairs, Gen. Jim Wold, will conduct a review and certify to Congress that everything should be declassified that is supposed to be.

I might also say that I have talked to General Wold, who has been extremely cooperative with me in every respect in attempting to comply with the declassification of documents.

My colleagues will recall that the last time the Senate acted on this matter was in July 1992, when we unanimously requested that the POW-MIA documents be declassified. This amendment now will ensure that a report is provided back to the Congress certifying that this work has been completed.

Amendment No. 3 requires the Secretary of Defense to provide a report to Congress within 180 days with recommendations from the military services as to the appropriateness of revising the Missing Persons Act of 1942. Legislation to amend the Missing Persons Act has been before Congress for several years. It is not new. But no hearings have been held in the Senate on this matter. The amendment simply requests that the Secretary of Defense formally provide the views of his Department to Congress on whether or not there should be changes in this law.

The National League of Families supports a DOD study on this issue, and there are indications that the military services are prepared, even as we speak, to come forward with recommendations if asked by the Secretary. So I hope this amendment will move that process along.

One of the central issues behind those pushing for change is whether a service member in a missing status should be declared dead by the military based primarily on the passage of a set period of time. This issue has been lingering since even my earlier days in the House of Representatives. Legislation addressing the issue is still pending in the House. But it is time that the Defense Department formally provide us its views on this matter. It is a very, very sensitive matter to the families, as you might expect. I think the Congress owes it to those families to get on with this report and resolve this matter.

Amendment No. 4 expresses the sense of the Congress that the Secretary of Defense should establish contacts with defense officials from the People's Republic of China to discuss the fate of American POW's and MIA's from the Korean war. The amendment contains sense-of-the-Congress language. The Senate Select Committee on POW-MIA Affairs made recommendations that the Chinese officials be approached about the Korean war POW-MIA issues in its final report in January 1993.

However, according to the State Department and the Defense Department, no real substantive decisions or discussions have taken place on this matter. This amendment does not require but it simply urges the Secretary of Defense to initiate such discussions with his counterparts in the Chinese Ministry of Defense.

I feel very strongly, based on my visits to North Korea and speaking to North Korean officials in December 1992, and earlier in 1991, that the Chinese have a great deal of information that they could provide on accounting for our missing military personnel from the Korean war. Frankly, the North Koreans indicated to me point blank that the Chinese would have such information.

So what we are trying to do is call this to the attention of the Secretary of Defense in such a way that we could perhaps open up some contact with the Chinese to get a process going where we could get some accounting, some answers on our men, which we know they have. I think, if you do not talk about it, you are never going to get it done.

So I hope that the Chinese will accept this in the spirit that it is offered and work with our Secretary of Defense to try to get some answers regarding our mission. We know they have them. It would be, I think, in the best interests of both of our countries' relations to see this happen.

Amendment No. 5 requires the Secretary of Defense to provide the Congress within 45 days a listing of Vietnam-era POW/MIA cases where Vietnamese and Lao officials possibly have more information under their control that could lead to the fullest possible accounting of these POW/MIA's.

There has been a lot of rhetoric concerning what Vietnam should still be

expected to do unilaterally on the POW issue.

This amendment No. 5 simply requests the Secretary of Defense to provide us with a listing of those cases, individual cases where the Vietnamese and the Lao should be expected to possibly have more information that can help us to account for those men—not that they do, but possibly. That is the key word.

Amendment No. 6 and the final amendment requires the Secretary of Defense to provide regular reports to Congress on the status of efforts to obtain POW/MIA information or remains from North Korea.

It also requires the Secretary to actively seek, via the U.N. command in Korea, the establishment of a joint working-level POW/MIA commission with North Korea consistent with the recommendations of the Senate Select Committee in January 1993.

In my visit to North Korea, in discussions with the North Korean officials also in 1992 and in July 1991, this was a matter that was discussed with the North Koreans. I think they are interested in doing that. We need to get that process moving as well.

In the last year, we have seen reports of more remains of United States soldiers being returned from North Korea. That is a positive step. It gets us talking to the North Koreans on something that might give us the opportunity to talk with them more on other issues of major consequence such as the nuclear issue.

Just last week it is reported that North Korean President Kim Il-song told President Carter that he had authorized joint United States-North Korean search teams to recover soldier remains in North Korea. This is a very positive step on this issue. It is something that has been long overdue. For roughly almost 40 years all we have done really is exchange lists across the table in a very hostile way. I think this is very positive, and I think it is the type of thing that Kim Il-song is offering. I think we ought to take him up on his offer immediately.

It is clear, very clear, based on my discussions and the documents that I have seen, that the North Koreans can provide us more information on and remains of our POW/MIA's from the Korean conflict and, coupled with the Chinese connection, can provide us a lot of answers on the some 8,000 missing from the Korean war—something that should have been done a long time ago. And I urge my colleagues to support me on this.

Basically, also, it will ensure that Congress is fully informed on this issue. For so long, the information on the POW/MIA issue has pretty much remained only in the hands of those codels that go over, and there has been little formal structure other than the MIA Select Committee. This is an opportunity to get some reports back and let everybody in Congress know what is going on. Hopefully, it will lead to a better understanding with North Korea.

Let me conclude, Mr. President, by taking this opportunity to say that the executive directors of the American Legion and the National League of Families and the Korean/Cold War Family Organization fully support these amendments and have sent me letters so indicating. I ask unanimous consent, Mr. President, to print those letters in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, DC, June 21, 1994.

Hon. ROBERT C. SMITH,
U.S. Senate,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: The American Legion continues to support positive efforts that will achieve the fullest possible accounting of American prisoners of war or missing in action (POW/MIA) from past wartime conflicts and the cold war. We were therefore, pleased to see your plan to introduce six amendments proposed for inclusion in the FY 1995 Defense Authorization Act which will soon be considered by the full Senate. If approved, these amendments would not only show a continuing national commitment to obtaining an accounting of missing American service personnel, but also demonstrate continued U.S. resolve to those nations who have information on our missing, have been than forthcoming in releasing all available data, and have diminishing incentive to do so.

Your sponsorship of these amendments now is extremely important. Since the trade embargo against Vietnam was lifted in early February, the emphasis in U.S./Eurasian relations has been motivated more by initiatives to increase because and trade than in the plight of unaccounted for American and the anguish of their families. Consequently, the Legion believes the U.S. has little bargaining leverage to compel foreign nations to disclose information on missing American service personnel, or to encourage them to relentlessly continue to pursue sighting reports or suspected burial sites.

The American Legion believes the best hope to obtain POW/MIA information is to allow U.S. contacts with these Eurasian nations to be governed by rules of conduct which mandate reports, release of formerly classified data and initiation of dialogues with foreign nations. Senate support of your amendments will revitalize the search for the remains of and information about missing Americans and reemphasize that this matter is the highest national priority.

Sincerely,

JOHN F. SOMMER, Jr.,
Executive Director.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington, DC, June 21, 1994.

DEAR SENATOR: The National League of POW/MIA Families urges full support for the amendments Senator Robert Smith plans to introduce for inclusion in the FY95 Defense Authorization Act.

Importantly, Senator Smith's amendments include provision of unclassified material, as well as declassification and release of classified information. It is our view that passage of these measures will further reinforce the bipartisan Congressional effort to ensure that all pertinent information on the POW/MIA issue is made available publicly, except that which would violate the privacy of the next of kin.

In our view, each of the proposed amendments enhance a spirit of openness and fall within the intent of language previously approved by the Congress and addressed in the executive orders of Presidents Bush and Clinton concerning declassification.

We also strongly support language which ensures that the Secretary of Defense will provide suggestions and recommendations to alter the U.S. Code statutes, developed in 1942, governing missing persons. The time for addressing these out-dated statutes is long overdue, and the League believes the most responsible means is for the Congress to obtain input directly from the Military Services before taking any action which will have long-lasting consequences.

Your support for Senator Smith's amendments will be extremely helpful as we continue to seek answers still being withheld, primarily in Hanoi, and not yet obtained on our relative still missing from the Vietnam War. These amendments will also ensure that thousands of American families who lost loved ones during earlier wars have access to relevant information.

Sincerely,

ANN MILLS GRIFFITHS,
Executive Director.

KOREAN/COLD WAR FAMILY
ASSOCIATION OF THE MISSING
Coppell, TX, June 21, 1994.

DEAR SENATOR BOB SMITH: The purpose of the Korean/Cold War Family Association of the Missing is "to account for all American personnel who are Prisoners of War or Missing in Action as a result of action in the Korean War and the Cold War." The Association genuinely thanks you for your six amendments to the FY95 Defense Authorization Act concerning the issue of unaccounted for U.S. personnel (POW/MIA) from the Cold War and the Korean War.

The Korean War/Cold War Family Association of the Missing unequivocally supports and endorses these amendments. The passage of these amendments would, for the first time ever, afford our missing the honor and dignity they so rightfully should expect from their country. These amendments make a real priority of a national commitment to obtaining an accounting for our POW/MIA's not only to our country but also to those foreign nations who have withheld information.

The passage of these amendments would set our nation on the path of correcting Section 555 of the Public Law, Missing Persons Act so misguidedly passed in 1942. Never did the Families wish to be paid by our government in lieu of searching for our loved ones, which was the result of this law, and never would we even remotely support such an idea much less a law. Many times this law has been challenged in our court systems by the Families. We have learned the only way to defeat it is to change it.

Most importantly, the language of these amendments, addresses the necessity of declassification and release of documents crucial to the Families' accessing all information regarding their loved ones; a right denied to us for far too many years. We have constantly been placed in the situation of educating our Senators and Congressmen to the fact the Executive Orders for declassification of POW/MIA documents did NOT

include the Korean War or the Cold War. The Critical issue of declassification ensures that all DOD's POW/MIA records are processed for declassification for the purpose of providing the fullest possible accounting for the missing from the Korean War and the Cold War. It is important that the same procedures set forth in the FY 92 DOD Authorization language on Vietnam era records also be applied to those from the Korean War and the Cold War. Further we believe the declassification amendment enhances the accounting efforts of the US/Russian Joint Commission and any future working level negotiations with North Korea and China. In light of the cost in tax dollars for any POW/MIA accounting efforts with a foreign country, it seems only reasonable that accurate and complete records on the missing must be available prior to negotiations. Your amendments ensure this necessity will be met in the future.

Again, thank you Mr. Smith. You are an honorable and courageous man. Be assured that the Korean/Cold War Family Association of the Missing will do all in our power to make the other Senators aware of how vital it is to pass these amendments.

Most sincerely,

PATRICIA WILSON DUNTON,
Co-Founding Director.

NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington DC, May 20, 1994.

Hon. ROBERT C. SMITH,
Dirksen Senate Building,
Washington, DC.

DEAR BOB SMITH: I am writing to convey the position of the National League of Families regarding H.R. 291, "to establish procedures for determining whether members of the Armed Forces in a missing status," etc.

The league's board of directors met April 29-30th and discussed the merits of this bill. The League opposes the language in H.R. 291 however, we recognize the inadequacies in the current statutes of the U.S. Code. For this reason, the League supports Congressional action to require the Department of Defense to conduct a study for the purpose of recommending appropriate changes to the relevant statutes. It is our view that such a study should be reported to Congress no later than 180 days from its initiation.

Our board of directors recognizes the effort that many, including Top Holland, have dedicated to this issue, but continues to have serious concern over the retroactive provisions included in H.R. 291, as well as obvious, though amended, interference with the prerogatives of the primary next of kin.

It is our hope that Congress will proceed with directing the proposed study. I am confident that the Military Services also recognize problem areas and will come forth with recommendations to address them. In our view, the study should occur as soon as possible.

Should you deem it appropriate, we would appreciate your efforts to include relevant provisions in the Defense Authorization Bill during the upcoming conference.

Sincerely,

ANN MILLS GRIFFITHS,
Executive Director.

Mr. SMITH. Mr. President, I also at this point ask unanimous consent to add Senator REID as an original cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. At this point I would simply call for a vote. I am not asking for the yeas and nays.

The PRESIDING OFFICER (Mr. BAUCUS). Is there further debate? The Senator from Georgia.

Mr. NUNN. Mr. President, first, I wish to thank the Senator from New Hampshire for his leadership on this issue. He is a stalwart in trying to do everything that we can possibly do to gain access to information relating to the POW/MIA's both individually and collectively. He has not only been zealous in his efforts on Vietnam era POW/MIA's but also on Korea. I have been with him when he has spent numerous hours on the subject in Russia and other places.

Each one of these amendments, as he has explained, I think can add to the knowledge that we have and that the families may have and give us the maximum amount of information.

We have reviewed each one of these amendments, and all of them have been worked out. There are two or three minor changes that have been made in them, but they have been presented as changed and as worked out. So I urge their acceptance.

Mr. SMITH. Mr. President, I thank the chairman of the committee. His cooperation in this matter has been outstanding. I am deeply grateful to him for his help in the recent Russian trips on some of the matters we discussed and also for his support and cooperation.

I also ask unanimous consent to add Senator KOHL as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendments en bloc are agreed to.

So the amendments (Nos. 1843, 1844, 1845, 1846, 1847, and 1848) were agreed to.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that Senator LIEBERMAN be added as a cosponsor to the Smith amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the pending amendment is the Johnston amendment?

The PRESIDING OFFICER. The Senator is correct, No. 1840.

Mr. NUNN. Mr. President, just so Senators will have some idea of the schedule. I know there are a lot of people who are inquiring, and the manager of this bill certainly cannot predict with certainty that Senators are going to come to the floor with amendments.

We have a number of amendments, obviously, that are going to be presented here in the course of this bill. We are trying to get people over now to present amendments, and I encourage anyone who has an amendment to come over at this time certainly if it relates to the defense bill. We will take it up this afternoon or this evening.

It is my hope that Senator KEMPTHORNE will be able to come over in a few minutes. He has indicated he hopes to be able to present an amendment around 5:30 on U.N. peacekeeping. There is a provision in the bill on U.N. peacekeeping that I believe Senator KEMPTHORNE will propose that we strike. So that will be a contested amendment. The committee will be in opposition to that amendment.

It is my belief, having discussed it with Senator KEMPTHORNE, that we can have a reasonable time limitation on that amendment. I would anticipate it would be about an hour. So assuming that we get started on that one about 5:30, it would be my view that we would vote somewhere in the neighborhood of 6:30 or 7.

I have also been informed by the leadership and by other Senators that there will be an invitation for Members of Congress and their families to go to the White House this evening. For that reason, we will have a window where there will be no rollcall votes after the Kempthorne amendment is voted on. I cannot say precisely when that will be. It will be, hopefully, between 6:30 and 7 o'clock, and we would not have votes between that hour and 9 o'clock tonight.

It would be my hope that during the period of time where some people may be attending the White House dinner that we would continue to have amendments presented. It would be my hope that we could then have the votes stacked until after that window, and that we would have some more rollcall votes after 9 o'clock tonight.

We will be on this bill tomorrow. Senator LEVIN was tied up in a hearing this afternoon on a matter relating to this bill, which will probably come up next week, on Bosnia. He was in a hearing and helping to preside over the hearing. He will be on the floor tomorrow morning prepared to present an amendment on the B-2.

It is my view that we would have a reasonable period of time for debate on that issue tomorrow, and that we would vote after a reasonable period of debate on the B-2.

It is also my understanding that the minority leader, Senator DOLE, will be making a presentation and laying down an amendment on Bosnia regarding lifting the arms embargo. But that amendment will not be actually voted on until next week.

I would hope we would have a number of other amendments that can be dealt with tonight and tomorrow. The committee will be here tomorrow. We will be voting tomorrow.

So I hope Senators will take that into account in making their plans, and that we can maximize the effectiveness of the time we spend here tomorrow.

I will certainly be consulting with the majority leader, Senator MITCHELL, on all of these matters. What I have said so far I think reflects the discussions that we have had and his instructions to me as far as managing this bill.

So that gives people some idea. I will now make certain remarks that can be interrupted in the event someone comes over to the floor with an amendment, and certainly when Senator KEMPTHORNE comes, I will complete my remarks on this particular subject at a later point in time.

PROCEEDINGS ON THE NOMINATION OF MORTON H. HALPERIN TO BE ASSISTANT SECRETARY OF DEFENSE FOR DEMOCRACY AND PEACEKEEPING

Mr. NUNN. Mr. President, last year the Committee on Armed Services considered the nomination of Dr. Morton H. Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping, a new position proposed to be established by former Secretary of Defense Les Aspin, but did not complete action prior to adjournment. The nomination was returned to the executive branch at the end of the first session of the 103d Congress, pursuant to Senate Rule 31. At that time, there were objections by a number of Republican members to inclusion of his nomination in the unanimous-consent request which retained a significant number of pending nominations in the Senate.

Following Secretary Aspin's resignation, the administration reevaluated the structure of the Department of Defense and determined that the position of Assistant Secretary of Defense for Democracy and Peacekeeping should not be established. On January 10, 1994, Dr. Halperin requested that the President not resubmit his nomination, and the President agreed. I ask unanimous consent that an exchange of letters between Dr. Halperin and the President be included at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, anyone who followed this nomination knows that the nomination was controversial. The fact of controversy, however, should not stand as a judgment on the individual's qualifications or on the merits of the specific allegations that were brought to the attention of the committee. While the Senate has a responsibility to consider information that bears on the fitness or qualifications of a nominee, the fact that an allegation has been made should not stand as a judgment that the allegation is valid.

COMMITTEE PROCEEDINGS

Because the nomination was withdrawn before the committee acted on the nomination, I believe that it is important to summarize for the record the committee's proceedings on the nomination.

President Clinton announced his intent to nominate Dr. Halperin on March 31, 1993. The actual nomination, however, was not forwarded to the Senate until August 6, 1993, on the eve of the August recess. After we received the nomination, I advised the administration that the committee would proceed with a hearing during the week of September 13, following Senate floor debate on the National Defense Authorization Act. I noted that our ability to conduct a hearing was contingent upon submission of the standard nomination documents that the committee requires of all nominees, including: First, the committee's questionnaire; second, the conflict of interest opinion from the DOD general counsel; third, the conflict of interest opinion from the Director of the Office of Government Ethics [OGE]; and fourth, the responses to the committee's prehearing policy questions.

Although the committee received the nominee's questionnaire and the conflict of interest opinions prior to September, the committee did not have the answers to the prehearing policy questions during the week of September 13, the time for the planned hearing. the responses to the prehearing policy questions provide the basic foundation for our nomination proceedings. Because these were not available during the week of the planned hearing, under the committee's standard procedures we could not proceed with the planned hearing. Under the circumstances, I informed Secretary Aspin on September 16 that the hearing planned for that week would have to be postponed.

We received the responses to the prehearing policy questions on September 21. As a practical matter, it was not possible to conduct hearings on this nomination at that point because the committee was involved in the House-Senate conference on the National Defense Authorization Act for fiscal year 1994, which continued from mid-September until the report was filed on November 10.

The committee's standard procedure calls for the FBI report on the nominee to be reviewed by the chairman and the ranking Republican member or their designee. In view of the various issues that arose with respect to this nomination, the administration agreed to make the report available to all members of the committee. In addition, the Republican members of the committee submitted a series of requests to the administration for information.

The committee conducted a public hearing on the nomination on November 19, 1993. At that time, I noted: "We will proceed with this nomination in the same manner that the committee has handled all other nominations. If credible allegations are presented to the committee, we will pursue them." I also emphasized the importance of fairness to the nominee: "We will ensure that Dr. Halperin has a full opportunity to address all issues that are raised about his nomination."

I made it clear that the committee should not simply concern itself with allegations about the nomination, but should focus on the full range of policy issues related to the new position of Assistant Secretary for Democracy and Peacekeeping.

Dr. Halperin was introduced by a bipartisan group of Senators reflecting diverse views on national security issues—Senator MARK HATFIELD, Senator DAVID BOREN, and Senator JOSEPH BIDEN. In addition, numerous Senators on the committee made statements in support of or in opposition to the nomination.

At the outset of the hearing, I observed that,

> Dr. Halperin has an impressive background. He is a graduate of Columbia College and has a masters and doctorate from Yale. From 1966–1969, he served in the Johnson and Nixon Administrations in the Department of Defense, where he earned the Meritorious Civilian Service Award, and on the staff of the National Security Council. From 1974 until 1992, he served as the Director of the Washington Office of the American Civil Liberties Union, where he was an active participant in a wide variety of public policy debates concerning national security issues. In November 1992, he was appointed as a Senior associate at the Carnegie Endowment for International Peace. In January 1993, he was appointed to serve as a consultant in the Department of Defense, a position he has held pending confirmation.
>
> Dr. Halperin has taught and lectured widely on a variety of subjects related to national security, and he is a prolific writer. Indeed, it appears that some of my colleagues on the Committee have been among the most avid readers of his books and articles! Dr. Halperin's nomination has received the support of a number of distinguished Americans, including a bipartisan array of former government officials.

I also noted: "Notwithstanding Dr. Halperin's impressive résumé, it is clear that this nomination is controversial and will be contested." The issues concerning the nomination were explored in detail at the hearing. The committee's published record (S. Hrg. 103–446) contains the transcript of the November 19, 1993 hearing, as well as Dr. Halperin's answers to the committee's prehearing questions.

DR. HALPERIN'S RESPONSES TO ISSUES RAISED CONCERNING HIS NOMINATION

The committee's November 19, 1993 hearing began at 9:31 a.m. and lasted until 6:42 p.m., with a brief break for lunch. In that lengthy proceeding, involving challenging questions, Dr.

Halperin demonstrated dignity, seriousness of purpose, and broad understanding of national security issues—and patience.

In addition to setting forth his views on national security policy matters, Dr. Halperin directly addressed a variety of allegations concerning his fitness for office, and I would like to quote directly from his testimony because it deals with a number of charges that were reported in the news media and that I think he dealt with at the hearing:

I have been accused of advising the Secretary of Defense not to send armor to Somalia. That is false. I had no knowledge of any request for armor until I read about it in the newspaper after the fact.

I have been accused of ordering a regional Commander to terminate an exercise. That is false. I called General Joulwan only to obtain information, not to intrude into the chair of command.

I have been accused of believing that the United States should subordinate its interests to the United Nations, never using force without its consent, and putting American forces at its disposal. That is false. I have never advocated these positions.

I have been accused of believing that government officials have the right to disclose classified information. That is false. I have consistently stated that the government has the right to fire anyone who does and to impose criminal penalties for the disclosure of such information.

I have been accused of opposing all counter-intelligence operations. That is false. I have supported effective counter-intelligence measures designed to protect sensitive information.

I have been accused of aiding Daniel Ellsberg in the disclosure of the Pentagon Papers. That is false. I did not assist in, and had no knowledge of, his disclosure of the Pentagon Papers.

I have been accused of aiding Philip Agee in the disclosure of the identities of intelligence agents and advocating the disclosure of such identities. That is false. I never assisted Philip Agee in those efforts, and I have condemned such action by him and others. (I did testify at his deportation hearing in England—a matter I would be glad to discuss with the committee.)

Most recently, I have been accused of traveling abroad for secret meetings with terrorists. That is false. I have had no such meetings, and to my knowledge there are no CIA documents suggesting that I have.

Numerous questions were raised about these and other issues during the course of the hearing, and Dr. Halperin responded in a direct manner that reflected well upon his respect for the confirmation process. He also acknowledged that had undertaken activities as a DOD consultant that were inconsistent with the guidelines applicable to nominees, and that he regretted certain statements he had made in the early 1970's about U.S. intelligence operations—statements which he subsequently abandoned.

Mr. President, as chairman of the Senate Armed Services Committee, I believe that the record should reflect that aside from his acknowledged activities as a consultant which exceeded the limitations set forth in DOD guidelines and committee expectations, none of the allegations of improprieties were substantiated in the course of the standard report on the nominee by the FBI, in other investigations by the executive branch.

I want to repeat that, Mr. President, because I think the record ought to be clear. I believe that the record should reflect that aside from his acknowledged activities as a consultant which exceeded the limitations set forth in DOD guidelines and committee expectations, none of the allegations of improprieties were substantiated in the course of the standard report on the nominee by the FBI, in other investigations by the executive branch, or in any evidence submitted to the Armed Services Committee.

Mr. President, there is no question that Dr. Halperin's writings and activities in the field of national security affairs have provoked controversy, and there is no question that his views would have been the subject of spirited debate in the committee and on the Senate floor. His views on collective military intervention, the relationship between the United States and the United Nations, as well as views on covert action—all of which were explored in the committee's preconfirmation questions and in the hearing—are proper subjects of debate and would have been appropriate factors to take into account during the consideration of the nomination.

While no nominee looks forward to having his or her nomination become the focus of such a debate, I am confident Dr. Halperin understood and respected the role of the Senate in examining such issues. Dr. Halperin clearly thrives on public policy debate, and I was impressed by the care and attention that he gave to each question during the lengthy hearing.

Dr. Halperin currently is serving on the staff of the National Security Council. This does not require Senate confirmation. I believe that the confirmation process served as an opportunity for Dr. Halperin to reexamine and reevaluate his views in light of the experiences of the United States over the last quarter century and the challenges we face during the 1990's and the years ahead.

He is now in a position of significant responsibility, and he has the opportunity to apply his substantial talents to the cause of a strong and effective national defense. I wish him well in that endeavor.

EXHIBIT 1

WASHINGTON, DC, *January 10, 1994.*

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write to respectfully request that you not resubmit my name in nomination for the position of Assistant Secretary of Defense for Democracy and Peacekeeping.

When my old friend Les Aspin told me that he wanted to recommend to you that I be nominated for an Assistant Secretary position in the Defense Department, I was pleased at the prospect of once again serving in the federal government. When you nominated me I was deeply honored.

At the same time, I believe that Cabinet officers should have the freedom to select their subordinates.

As I said at my confirmation hearing, I believe that there is no higher calling than to serve the nation, and I am at your disposal should you believe that I can be of assistance to you and your Administration.

Respectfully yours,

MORTON H. HALPERIN.

THE WHITE HOUSE,
WASHINGTON,
Brussels, January 10, 1994.

Mr. MORTON H. HALPERIN,
Washington, DC.

DEAR MORT: I have received your letter asking that I not resubmit your nomination to be Assistant Secretary of Defense for Democracy and Peacekeeping. With deep appreciation for your willingness to serve our country and with real regret, I accept your request.

Yours is a superb record of service and accomplishment dating back over 30 years. Your qualifications speak for themselves, and I am pleased to hear that your willingness to serve my Administration continues unabated.

At the same time, I appreciate your understanding of the circumstances involved in a new Secretary of Defense coming on board and the tradition of Cabinet officers having the freedom to select subordinates.

I am confident that this Administration will continue to benefit from your talent and counsel and hope that you will be available for other suitable assignments.

Sincerely,

BILL CLINTON.

Mr. NUNN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, my good friend, Chairman NUNN, has offered information to vindicate Mr. Halperin. I will take the opportunity to answer this at a later date. I did not realize this was coming up.

His name was sent over here. We presented statements to show that it would be dangerous to put him there, and the President withdrew the nomination, but he put him in, I believe, the National Security Office. We think it is a very unwise position to take. We think he made a mistake. And at a later time I will make a further statement on this subject.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, I hope we can get this amendment up. Senator KEMPTHORNE will be able to present it. I appreciate him coming over.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I appreciate the chairman providing the opportunity so I can present the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment, Johnston amendment, will be temporarily laid aside.

AMENDMENT NO. 1849

(Purpose: To redirect funds authorized to be appropriated for fiscal year 1995 for the Contributions for International Peacekeeping and Peace Enforcement Activities Fund)

Mr. KEMPTHORNE. Mr. President, I send an amendment to the desk on behalf of myself, Senator MCCAIN, Senator SMITH, and Senator COATS and ask for its immediate consideration

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for himself, Mr. MCCAIN, Mr. SMITH, and Mr. COATS, proposes an amendment numbered 1849.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 219, after line 19, insert the following:

(d) PURPOSES FOR WHICH FUNDS AVAILABLE.—Notwithstanding subsection (g) of section 403 of title 10, United States Code, as added by subsection (b)(1), funds appropriated pursuant to the authorization of appropriations in section 301(20) may not be expended for paying assessments for United Nations peacekeeping and peace enforcement operations (including any arrearages under such assessments). The funds so appropriated shall be credited, in equal amounts, to appropriations for the Army, Navy, Air Force, and Marine Corps for fiscal year 1995 for operation and maintenance in order to enhance training and readiness of the Armed Forces and to offset any expenditure of training funds for such fiscal year for incremental costs incurred by the United States for support of peacekeeping operations for such fiscal year.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, the amendment now before the Senate would alter the defense authorization bill's language regarding the use of DOD to pay for part of our U.N. peacekeeping assessment. Under the bill's current language, $300 million in DOD funds are authorized to reimburse ourselves when our troops support U.N. peacekeeping operations and to pay the U.S. share of the U.N. peacekeeping assessment in cases where our troops participate.

My amendment would alter this provision and direct that this $300 million be used to augment the Department of Defense's training and readiness accounts. Specifically, the $300 million authorized by this act would be made available to enhance the training and readiness of our Armed Forces. In addition, my amendment would prohibit the Department of Defense from using these funds to pay the U.S. share of the U.N. peacekeeping assessment and arrearages. My amendment would do nothing to alter the existing procedures that allow State Department funds from the foreign operations appropriations bill from being used to pay our U.N. peacekeeping assessment. Instead, my amendment would stop the effort to shift a portion of this significant responsibility to the Department of Defense.

My amendment is an effort to direct DOD funds away from the United Nations and focus our limited resources on the training and readiness of our Armed Forces. As the newspapers demonstrate every morning, we still live in a dangerous world and the men and women who wear the uniform of the United States troops may be sent to North Korea, Haiti or Bosnia and Herzegovina on any given day. Enhanced training and readiness means more of these American men and women will come back from those types of conflict.

My amendment also has two other objectives. First, we need to draw a line in the sand and say from now on defense dollars will be used for actual defense capabilities. No more using defense funds to pay for everyone's favorite project which cannot be funded in its own account.

Second, my amendment will put the United Nations on notice that America is paying more than its fair share for peacekeeping and we need to address this inequity.

Since the end of the cold war, the United Nations and the United States have embarked on an increasing number of peacekeeping operations. While we have participated in traditional peacekeeping operations for decades, with the end of the cold war peacekeeping and peace-enforcement operations seem to be assuming a greater and greater role in U.S. national security policy. The U.S. involvement in "peacemaking" operations raises serious questions about the criteria used to determine when we should participate in these operations and how these operations should be funded.

The administration has adopted a new peacekeeping policy, Presidential Decision Directive 25, which seeks to address these and other seminal questions. The fiscal year 1995 Defense Authorization Act seeks to implement this policy by establishing an account at the Department of Defense to pay a portion of the U.S. peacekeeping bill from the United Nations.

The fiscal year 1995 defense authorization bill now before the Senate represents, as has been stated repeatedly, the 10th straight year of reductions in defense spending, and I do not believe, given all of the tough choices the Armed Services Committee and the Senate must make regarding defense spending, that we should add the U.N. peacekeeping bill to the Department of Defense's responsibilities.

As I stated to Ambassador Albright earlier this year, I strongly oppose the proposal to force the Department of Defense to pay for U.N. peacekeeping operations. As I see it, someone determined that the Congress would not support increasing the foreign aid budget so the administration has targeted DOD funds to pay for its multilateral policies.

I suspect that the proposed $300 million installment in fiscal year 1995 will be the foot in the door and next year the administration will come back to us to request more DOD funds to pay our U.N. peacekeeping bill. In fact, I am told the administration was actually hoping the Congress would provide $600 million in DOD funds in fiscal year 1995 to pay for the U.S. share of U.N. peacekeeping operations.

Opponents of my amendment will say that we need DOD funds going to the U.N. so that DOD can take the lead on peacekeeping operations, a question of jurisdiction. Now I understand the concept of shared responsibility but I do not believe DOD funds must be contributed before the Department's military expertise can be brought to bear on U.N. and U.S. peacekeeping operations.

More importantly, I do not believe the rest of the world is paying its fair share of the world peacekeeping burden. I applaud the administration's effort to reduce our U.N. peacekeeping assessment from 31.7 percent to 25 percent but I believe this figure grossly underestimates the cost, to the American taxpayer, of the U.S. contribution to U.N. peacekeeping operations. Let me recite a few facts. In fiscal year 1994, the United Nations expects to spend about $3.5 billion on peacekeeping operations. Of this $3.5 billion, the United States will get a bill or "assessment" for over $1 billion. At the same time, United States military forces are supporting U.N. peacekeeping operations, humanitarian missions and Security Council resolutions in Iraq, Bosnia and Herzegovina and Haiti. Yet as I understand it, because we have wisely decided not to put our troops under the command of the United Nations, these military actions must be "donated" or "volunteered" by the United States. As a result, we will receive almost no compensation or credit for these deployments.

As members of this committee recall, earlier this year the administration requested, and the Congress approved, a $1.2 billion supplemental appropriation to cover the incremental costs of these donated peacekeeping operations. Officials from the DOD comptroller office tell my staff that we might get about $100 million back from the United Nations for these $1.2 billion expenses. So as I see, the United States is scheduled to pay about $2.1 billion of a total world peacekeeping bill of $4.7 billion. That is over 44 percent of the bill paid by the American taxpayer and that is too much and I believe that is wrong.

I want to urge my colleagues to support my amendment and help bring some equity and balance to the payment of the U.N. peacekeeping bill. I hope a majority of my colleagues will support this amendment because I believe that American people will not stand for a policy that asks them to pay for almost half of the world peacekeeping operations, and at the same time to take it from the DOD budget, where we are already seeing our 10th year of declining amounts in the Department of Defense budgets.

We have a chance here today to put pressure on the United Nations to fix its burden-sharing equation for international peacekeeping operations so that the other nations of the world pay their fair share. I hope that we do not miss this opportunity.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, could I propose to Senator KEMPTHORNE a unanimous consent agreement that there be a total of 40 minutes debate on this amendment, equally divided from this point on; that the time be equally divided and controlled in the usual form, with no amendment thereto, no amendment in order to the amendment, or any language which may be stricken; and that when the time is used or yielded back, the Senate, without any intervening action or debate, vote on or in relation to the amendment.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I will be happy to agree to that.

The PRESIDING OFFICER. Is there objection?

Without objection, the request is agreed to.

Who yields time?

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that the time allocated to the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I am going to say a few words about this amendment. I know there are people who have been very involved in this, Senator LEVIN from Michigan and others, who may want to come over to speak.

Mr. President, I oppose this amendment.

We did substantially alter the administration's request in the peacekeeping area. The specific nature of the amendment, basically, as I understand it, takes $300 million that is in the bill that would pay for peacekeeping operations where U.S. combat forces are involved, and would be able to use $300 million to make sure those assessments are paid only where U.S. combat forces are involved and shifts that to the overall readiness accounts; am I correct in that interpretation?

Mr. KEMPTHORNE. Yes.

Mr. NUNN. Mr. President, section 1032 of the bill before us established up to $300 million in contributions to international peacekeeping and peace enforcement operations, so-called CIPA funds, to pay the United Nations assessment for U.N. operations in which U.S. combat forces participate.

The administration had originally requested that CIPA funds be used to fund assessments for those U.N. peacekeeping operations in which U.S. combat forces participate, as well as all U.N. peace enforcement operations. Our bill did not agree with the administration's request on the broader purposes and limited the use of CIPA funds to U.N. peacekeeping operations in which U.S. combat forces participate, since we believe that such operations are the ones in which we have an overriding interest to assure that they are properly funded.

Mr. President, if this amendment passes, the paradoxical result of it will be that because the United States is so far in arrears on our overall United Nations participation—and this bill does not catch up in any way on that—we could be in a position of having U.S. forces participating in a U.N. operation, but the other people who are asked to participate not having enough confidence that they are going to be reimbursed for their participation to be willing to commit.

I know that is not the Senator's intention. But it seems to me it is in our interest, when U.S. combat forces are sent to a U.N. peacekeeping operation, to assure that there is enough funding, enough robust funding so that all the United Nations kinds of reimbursements can be made and so that the other countries that we want to participate alongside of will be willing to commit their military forces.

We are reaching a point where the United Nations is so hard up for cash that we are going to have increasing difficulty getting other countries to participate. The last thing we want is the U.S. forces to be participating alone.

So I understand, based on some of the past actions of the United Nations, why there would be people who are skeptical about any commitment of U.S. forces. But this amendment, if it passes, does not prevent U.S. forces from being engaged in those operations. It simply prevents DOD funds from being used to pay for our part of those operations.

If that is the case, then we would have to look to the State Department budget, and all of us know that that budget itself is woefully short of the ability to pay for these kinds of operations.

I hope, at some point in the future, the State Department will be properly funded. But, in the meantime, I think it is in the United States interests for U.S. combat forces to be assured that, when they are called on to participate in U.N. peacekeeping, that they will have allies fighting alongside them and that the United Nations itself will be in a financial position to carry out the kind of contingency peacekeeping operations with effectiveness and efficiency.

So, for those reasons, I oppose the Kempthorne amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Will the chairman yield for a question?

Mr. NUNN. I have yielded the floor. It is on the Senator's time. I am going to be short of time.

Mr. KEMPTHORNE. I will make it a short question.

I ask the chairman, would he agree that in order for the United States to be reimbursed, we have to put our troops under U.N. command, based on the requirements of current policy?

Mr. NUNN. I think the Senator is correct in that.

Mr. KEMPTHORNE. I see that as a very important element. We know that we have the finest fighting forces in the world. Therefore, why should we put them under U.N. command?

I think in Somalia we saw, unfortunately, the demonstration that the United Nations is not prepared for that type of command. We should not subject our troops to that same sort of situation. But in order to receive reimbursement we have to put them under U.N. command and I reject that.

Then the chairman made the point that we may be in arrears, and we will be paying off those assessments so we are equal with the other countries. But I will quote a statement that Ambassador Madeleine Albright made to a subcommittee of the Armed Services Committee on May 12.

"Successful U.N. peacekeeping operations serve our interests." And I do not disagree. "But they will more likely succeed if we have met fully our obligation to help pay for them, and if we encourage other member states who have fallen behind in their payments to do the same."

There are a number of countries who have not paid their assessments, yet the United States, both through its assessment and through the supplemental—and through the operations we

have undertaken in Haiti and Bosnia and Iraq—we are not getting credit for that. So we are paying far more than our fair share. This helps us to correct that.

And, Mr. President, I make this point, too. I think we are very fortunate, I will say, to have Chairman NUNN as chairman of Armed Services and Senator THURMOND as the ranking member. I think we have great leadership of the Armed Services Committee. I am proud to be a member of that committee. I know the number of projects we are not able to pay for that I think we should be paying for both in readiness and equipment, so we can support the men and women in uniform. And now here is $300 million more that is being taken out of that account so we cannot cover those essential needs, the needs at home, first, with leadership that would direct it to the appropriate needs.

That $300 million is now taken away from us for that sort of use. That is why I believe we should adopt this amendment. We know best where that money can be spent in the Department of Defense.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, on the subject of U.N. command, I hope our colleague will take a look at our provision, legislative provision in the bill where we state, in paragraph 7 of page 212 here, "United States combat forces should not be under the command and control of foreign commanders in peace enforcement operations conducted by the United Nations except in the most extraordinary circumstances."

So our intent here is that there be a U.S. commander but that U.S. commander would, in many cases, have a U.N. hat. The U.N. commander can be an American, and in many cases will be an American.

For instance, in Mogadishu the commander of forces is a U.N. commander, but is also an American commander. We have operated that way for a long time. We did that in Korea. The whole Korean war was fought under U.N. command, but America was in charge.

I think most people would acknowledge it is in our interests to have other countries in the world fighting with us. Under those circumstances it almost inevitably has to be a U.N. commander to basically get them to participate. But that commander will usually, except in extraordinary circumstances, be an American.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no Senator yields time, time will be deducted equally from both sides.

Who yields time? The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to respond to what the chairman has stated. I agree with the provision he just read. But I also go back to what the policy states, and that is, in order for the United States to be reimbursed American troops have to be under U.N. command. It may be American command but it may not be. And I do not believe United States troops should be under U.N. command.

Again, we have seen in Somalia that that was not successful.

I know the chairman of the Armed Services Committee could present to us now a long list of items that we could more appropriately and effectively be spending $300 million on in our Department of Defense than giving this money to the United Nations. And that is the intent of this amendment.

Mr. President, I yield.

Mr. NUNN. Mr. President, if I could just take 30 more seconds and then I will yield the floor. In Somalia we went through those hearings very carefully. We had commanders, both Montgomery and Garrison, before us. It is clear, very clear from the record, our forces there during that period of time where there was the real trouble, the combat forces were not under U.N. command. They were under U.S. commanders. The record is abundantly clear on that. We had certain logistics forces under U.N. command, but the forces in the Somalia raid which ended up as a tragedy with so many Americans killed were under United States command. We had clear and abundant testimony on that. They were not under U.N. command. It was a tragedy and the overall—some of the overall policy was U.N. policy. U.N. policy was developed by the Security Council, that we voted on.

So whatever mistakes were made at the United Nations, we were fully in participation in those, as tragic as those results may have been. But the U.S. command, the combat command on the ground—it was not U.N., it was U.S.—General Montgomery was the overall commander, and then we had American commanders under him.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, in January of this year I went to Mogadishu and I met with General Montgomery. I also met with General Bier, who was the U.N. commander, the general from Turkey. Both gentlemen expressed their frustration with the structure that was in place—and I say both men because they were dealing with the structure from different aspects.

The important point I would like to make is that the support troops, to support our U.S. troops, were under General Bier, the United Nations. And that was a problem.

The PRESIDING OFFICER. Who yields time?

Mr. KEMPTHORNE. I yield time to the Senator from South Carolina. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Idaho has 14 minutes and 35 seconds remaining; the Senator from Georgia has 11 minutes, 16 seconds remaining.

Mr. KEMPTHORNE. I yield 8 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina has 8 minutes.

Mr. THURMOND. Mr. President, I rise in strong support of the amendment offered by the able Senator from Idaho. In the short time he has been in the Senate, Senator KEMPTHORNE has proved to be a most effective member of the Armed Services Committee. I commend him for bringing this amendment to the floor.

The Kempthorne amendment would reallocate the $300 million currently in the defense authorization bill for United Nations peacekeeping assessments to the Defense Department's operation and maintenance account. It would be used primarily to cover training shortfalls.

I believe the Defense budget should not have been burdened with $300 million for U.N. peacekeeping in the first place. If the peacekeeping account remains in the bill, the Defense budget will bear direct responsibility for payment of U.N. peacekeeping efforts for the first time. This is a major step—one that I believe is not in the best interests of the Nation or the armed services.

I am not opposed to U.N. peacekeeping in principle, nor is the Senator from Idaho. There are times when the United States should participate in such activities. But I feel strongly that our first priority is to be able to act unilaterally in our national interests when necessary.

In authorizing the peacekeeping account, the committee bill puts the seal of approval on the administration's expanded new policy for U.N. peace operations, as embodied in Presidential Decision Directive 25 [PDD–25]. But many members on both sides are not aware of the full implications of this new policy. PDD–25 and its doctrine of "assertive multilateralism" represent a quiet but significant revolution in U.S. security policy. The result of this policy may turn out to be increased subordination of American military forces and U.S. foreign policy to the United Nations. Before we embark upon such a sweeping new policy, we ought to examine its potential impact upon the Nation's interests and in particular on U.S. military capabilities.

I also believe that in the future there will be pressure to eliminate the restrictions placed by the committee on the peacekeeping account. Once the defense budget becomes a legitimate

source of U.N. peacekeeping funds, there will be no principled argument in the future not to remove the restrictions on its use, or raise the amount. The result will be the expanding use of defense funds for U.N. activities, and a corresponding decrease in congressional accountability and control.

We need more congressional control and oversight of peacekeeping, not less. I hope that the peacekeeping account in the bill will not make it easier for the administration to embark upon dubious U.N. ventures, with possibly even more tragic results than those we suffered in Somalia.

To summarize the arguments in favor of the amendment:

Without the amendment, the Senate will appear to be giving tacit approval to PDD–25 without full knowledge of its provisions.

Without the amendment, the Department of Defense, for the first time, will be using its appropriations to pay the United Nations directly for a peacekeeping effort.

Some $300 million would be of substantial benefit to the forces in the area of training.

Without the amendment, there is a temptation to involve U.S. forces in peacekeeping efforts in order to recoup some of the funds sent to the United Nations.

We are already doing our share for peacekeeping. We will pay roughly $1 billion for peacekeeping for fiscal year 1994.

The United Nations has a questionable method of accounting for funds to include the accounting for peacekeeping funds.

Having crossed the threshold of putting peacekeeping funds directly in the DOD budget, the $300 million could grow from year to year, adding to pressure on the DOD budget.

Mr. President, for these reasons I favor the amendment and hope it will be adopted. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 11 minutes 15 seconds remaining.

Mr. NUNN. I yield 6 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 6 minutes.

Mr. LEVIN. Mr. President, first, I thank the chairman for yielding some time to me.

We have received a very significant letter from General Shalikashvili and Secretary of Defense Perry. It is a letter which is addressed actually not to us but to the Vice President as President of the Senate. I want to read from this letter as it relates to this amendment because it seems to me it makes the critical point which should be made against the pending amendment.

We write to express our support for the language in the National Defense Authorization Act for fiscal year 1995 relating to international peacekeeping and peace enforcement activities.

Then General Shalikashvili and Secretary Perry go on to say the following:

The President's peacekeeping policy makes disciplined choices concerning which peace operations to support, reduces U.S. costs for U.N. operations, clearly defines the command and control arrangements for U.S. forces participating in U.N. peace operations, reforms the U.N.'s ability to manage peace operations, improves the way the U.S. Government manages and funds peace operations and establishes more effective cooperation between the executive branch, the Congress and the American public on peace operations.

Pursuant to the President's policy directive, the Department of Defense has proposed the creation of a special Department of Defense account for international peacekeeping and peace enforcement activities, which includes a budget request of $300 million for fiscal year 1995 to fund U.S. assessed contributions for those operations in which the Department of Defense has the lead management responsibility for the United States Government. The Senate Armed Services Committee's legislative recommendation authorizes the creation of this account at the level requested by the President for U.N. operations in which we participate, either with forces or with logistics support and is an important step toward implementing the President's policy to reform U.N. peace operations.

And the bottom line, they say—again, we are talking about the Chairman of the Joint Chiefs and the Secretary of Defense:

We urge you to support the language as reported by the Armed Services Committee and to oppose any amendments which seek to restrict the committee's proposed language.

The amendment before us does exactly that; it restricts the committee's proposed language. And that is why General Shalikashvili and Secretary Perry so strongly oppose it, for the reasons that they gave earlier.

We had General Zinni before us recently. He was the nominee to be commanding general of the 1st Marine Expeditionary Force. I think he was just confirmed this week. I think actually just 2 days ago. He has been involved in operations in Bangladesh, Iraq and Somalia. He has a lot of direct experience when it comes to peacekeeping and peace enforcement. He is, frankly, critical of many aspects of the United Nations recent performance running peace operations in particularly dangerous settings and skeptical of the United Nations current command-and-control capabilities, as many of us are. Indeed, I am critical of much of the United Nations command structure or the lack thereof.

General Zinni, who we just confirmed, is a hardnosed marine and he is a realistic observer. He believes that the United States has a responsibility and an opportunity to lead in improving the United Nations in trying to make multinational operations work. This is what he told the Armed Services Committee:

The future is multinational operations. We ought to provide resources, leadership and personnel to do it right. The only alternative is to establish an isolationist position or to dangerously stretch our already thin military capability to meet unplanned forward commitments in an ad hoc manner. Regional instability, drug trafficking, threats to the environment, overwhelming human catastrophes, mass slaughter, threats to democracies are examples of events that could conceivably involve our interest. We should attempt to deal with them in an international context to promote burden sharing and to gain a sense of international legitimacy, but that will require our leadership and participation.

I urge all Members of this body to particularly read the letter from the Chairman of the Joint Chiefs of Staff and the Secretary of Defense that oppose any amendment which would restrict the committee's proposed language in this area, and the pending amendment surely falls into that category. I hope that it is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Idaho is recognized.

Mr. KEMPTHORNE. I yield 2 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. COATS. Mr. President, I want to rise to support the amendment of my friend and colleague from Idaho, Senator KEMPTHORNE. $300 million is a lot of money. There is a broader question here, however, that I think needs to be addressed.

Clearly, we are stretching the limits of our ability to provide readiness and training for our troops, and directing these funds to that purpose is a worthy one. At the same time, I think it sends the very clear decision on the part of this Congress that there are other functions for which this money ought to be allocated. It should not come out of Department of Defense functions.

However, it is that broader question which most concerns me and one which I hope we can find the time to address.

The administration has proposed and has, in fact, now written a new directive, PDD–25, which outlines the when and how of U.S. involvement in U.N. and multilateral peacekeeping operations. It discusses peace enforcing as well as peacekeeping in both chapter 6 and chapter 7 of the United Nations Charter, and it raises a number of questions which I do not believe have been thoroughly aired and thoroughly discussed.

We do not have the time under this amendment to do that. I had hoped to be able to do that. Obviously, in 2 minutes that is not possible.

But I would hope that both the Armed Services Committee as well as the Foreign Relations Committee and the entire Senate could give some very serious attention to how and why and when we involve U.S. troops in conflicts around the world, and how and why and when we integrate them with U.N. peacekeeping and peace enforcing operations.

There are many questions that have not been answered. I hope we can do that. In the meantime, I hope my colleagues will support this amendment which moves us in that direction.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. KEMPTHORNE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 6 minutes 51 seconds remaining; the Senator from Georgia has 5 minutes 50 seconds remaining.

Mr. KEMPTHORNE. Mr. President, I would like to yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 3 minutes.

Mr. MCCAIN. Mr. President, I rise in support of the amendment. I appreciate the efforts put into this amendment by my colleague from Idaho.

A lot has been said about this amendment. I would like to just talk a little bit about the aspect of the peacekeeping impact on our training and readiness. Training is the backbone of readiness. The level of sophistication, quantity and quality of our military training structure is the means through which we guarantee that our Nation will be victorious under any conditions and that we will do so with minimal loss of life to our own troops. We proved this clearly during Desert Storm.

We no longer have the force structure with which we fought the war in the desert and the turnaround times for our carrier battle groups and divisions have compressed from 18 months to 12 months. These compressed training schedules do not violate requirements put in place to protect the morale of our troops, but we certainly have to wonder if today's schedules are in keeping with the spirit of our arrangements. We can still maintain a reasonable level of readiness with a reasonable amount of sacrifice on the part of our forces that will not riot, strike or sue. That is the type of people we attract. But the only thing our troops expect is we will send them forth inadequately prepared never.

Where this simple expectation starts to become impossible to fulfill is when we start committing our forces to peacekeeping operations that do not pass the tests set in other questions raised by the Senator from Idaho.

Mr. President, I ask unanimous consent to be allowed 3 additional minutes.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Is there objection? The Senator from Georgia.

Mr. NUNN. Could we just basically propound a unanimous consent that there be an additional 10 minutes to be equally divided because we are going to give out time on both sides and that will give us a rollcall vote at 6:30, possibly, is that right? Am I correct in that?

The PRESIDING OFFICER. Is there objection to that request? Without objection, each side is given an additional 5 minutes.

Mr. STEVENS. Mr. President, will the Senator yield for just one moment?

Mr. MCCAIN. Could I just finish, please, I ask the Senator.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KEMPTHORNE. Mr. President, I would yield an additional 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for an additional 3 minutes.

Mr. STEVENS. I do not want to hold up the unanimous-consent request but there will be then no more votes until a time certain?

Mr. NUNN. Yes. We will vote at approximately 6:30, and there would be a window here with no rollcall votes until at least 8:30, and possibly as long as quarter of 9.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. As I was saying, Mr. President, the expectations that our men and women in the military have start to become impossible when we start committing our forces to peacekeeping operations that do not, indeed, allow them to maintain the level of readiness that is necessary. A unit that is halfway through a 12-month training cycle that suddenly finds itself holding down an airport, beachhead or protecting peace workers is not half ready. Training is not divisible in clearly defined increments. It also follows that when that unit returns after 6, 8, or more months after peacekeeping duty, they will not be able to resume the training program at the point they left off.

Toward this end, this amendment seeks to protect the fiscal means through which our military can attempt to recoup some of its lost training. Training left incomplete as a result of commitments to U.N. missions cannot be readily replaced. It is simply gone at some cost to the price of peacekeeping.

My belief is that this amendment will offer DOD freedom from an additional injurious financial obligation incurred by paying a portion of U.N. assessments. DOD funds are intended to provide for the readiness of our services and ultimately the defense of this Nation.

Please bear in mind that money spent on these types of assessments are resources that should rightfully be programmed for refresher training. To reclaim readiness, refresher and proficiency training is necessary and should be required upon return. We are already asking our military to make do with less. We should not ask returning units to take refresher training funding out of hide.

The idea of requiring our services to in effect pay the price of admission for their own participation in a U.N. operation seems ludicrous.

Funding U.N. operations has traditionally been a responsibility of the State Department and is a tradition I am strongly in favor of perpetuating. As we see defense top lines free fall to mid-1980 levels, it is not the time to start adding new fiscal burdens on an already fragile defense budget.

I have serious concerns about the administration's foreign policy and its reliance upon the United Nations for foreign policy leadership and decisions. If we choose now to identify the defense budget as the cash cow that will support the ever-increasing number of U.N. peacekeeping operations that lie ahead, we are setting the stage for the demise of readiness and dooming our services to operate with even more austere resources than are offered under the current gutted defense budget.

In summary, for all these reasons, for the readiness of our Armed Forces and our Nation, I strongly urge the support of this amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. NUNN. I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Kempthorne amendment to the National Defense Authorization Act for fiscal year 1995.

This amendment would eliminate the provision in this bill that provides for Department of Defense funding of U.S. assessments for international peacekeeping activities involving U.S. combat troops.

Mr. President, I agree with the administration's view, as expressed in the Presidential Decision Directive 25 and the original version of this bill, that DOD should bear a share of the responsibility for international peacekeeping operations. I therefore add my voice to that of the Pentagon, Department of State and the Committee on Armed

Services in support of the bill as currently before the Senate, and I urge my colleagues to reject this amendment.

In the coming months, I will be taking a close look at the potential for the greater sharing of responsibilities between the Department of Defense and the State Department on matters related to peacekeeping.

The section of this bill, relating to peacekeeping, represents a step in the right direction. The adoption of the concept of shared responsibility is a significant development.

Pentagon funding of our peacekeeping assessments helps ensure that American military expertise is brought to bear on peacekeeping and peace enforcement operations, especially those that have a significant military component or involve U.S. troops. It also helps ensure that the United States meets its binding obligations to pay its share of peacekeeping costs. Continuing U.S. arrears in our assessments threaten to undermine U.N. peacekeeping efforts. Clearly, we must reassess the manner in which we respond to our peacekeeping obligations.

To those who fear a marked increase in DOD funding responsibilities, I note that the vast majority of U.N. peace activities fall under traditional chapter VI peacekeeping and do not involve U.S. forces. As this section of the bill obligates DOD to pay only assessments for U.N. peacekeeping or peace enforcement activities which include U.S. combat forces—defined as forces which have a primarily combat mission—most assessments would remain the responsibility of the State Department.

It is in our interests to support a strong United Nations capable of engaging in selective, but effective, peace operations. Yet the United States cannot call for greater international cooperation and coordination in resolving the world's conflicts while at the same time shirking its own responsibilities to the international community. The United States can and should provide vital leadership to strengthen the United Nations as a multilateral security institution.

U.N. peacekeeping operations can be important instruments for protecting and advancing U.S. interests. But our failure to support international efforts at conflict resolution today will sow the seeds of tomorrow's Rwandas and Bosnias.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield the Senator from Florida 3 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. GRAHAM. I thank the Chair.

Mr. President, I have listened with interest to the views expressed by my colleagues regarding our Nation's involvement in international peacekeeping operations.

I would like to take a moment to share my observations in this regard.

I believe that in this post-cold-war era, the United States has essentially three options for dealing with world conflicts and strife.

One, the United States can sit on the sidelines and watch events unfold in the world around us, doing nothing even when these events have a significant impact on our national interests.

Two, the United States can act unilaterally where and when we believe that it is in our national interest to do so.

Or three, the United States can contribute to the development of effective multinational capabilities to deal with these world events or crises.

I believe increasingly that third option will be the one we will wish to choose.

We have learned from our Nation's history that the first option—essentially, isolationism—has negative consequences which are not in our national interest.

To pull inward and watch from the sidelines would be failure to acknowledge our role as a world leader, and the fact that this world is becoming more interdependent and interconnected than ever before in human history.

It would lead to a loss of credibility in the international community and certainly undermines our ability to work together with other nations.

The second option—unilateral operations—also poses significant problems for us if we were to choose it.

For one, we do not have the national assets required for us to perform all of the operations in this world required to protect our national interests.

As we speak, and as in the past, our military continues to be involved in numerous exercises with foreign nations, training together and developing proficiencies so that we can coordinate our efforts in time of need.

And in these times of need, we would work closely, as we did in the past, with our allies to address whatever crisis with which we are dealing.

When we acted to thwart the aggression of Saddam Hussein during Desert Storm, we did it in concert with other nations, not on our own.

Therefore, I believe that the question that is before us now is how to make the third option as effective as possible in terms of strategic decisionmaking, organization, training, equipment, command and control, and the other requirements of political and military operations.

We have now had a number of experiences from which to learn what are the challenges and what are some of the means of more effectively preparing ourselves for yet future challenges.

We cannot afford to turn back from the lessons we have learned to date.

That is why I believe it is important that we, along with our allies, remain committed to the process, and effort, of developing a workable and mutually beneficial system for promoting and keeping peace.

One important part of that effort is ensuring that our Nation pays its share of legitimately assessed costs associated with peacekeeping operations.

There is widespread agreement with the administration that our assessments should be reduced to 25 percent from 31 percent, and that some of our allies should bear a larger share of the financial costs than they are currently.

However, with respect to paying what we have been legitimately assessed under current rules, there is no doubt that withholding such funds will unduly burden the United Nations and negatively impact efforts to promote reforms and enhancements within the organization.

That is why, if we are genuine in our desire to see the United States play a credible and productive role in international world affairs, it seems to me we need to be committed in our efforts to make the United Nations a viable organization.

The Senate has confirmed the nomination of Maj. Gen. Anthony Zinni, U.S. Marine Corps, to the grade of lieutenant general, and to be the commanding general of the First Marine Expeditionary Force.

He is an expert on this issue of U.N. peacekeeping.

Gen. Anthony Zinni has served in numerous multinational task forces, including a tour as the chief of staff and deputy commanding general of the combined task force Provide Comfort during the Kurdish relief effort in Turkey and Iran.

He served as the military coordinator for operation Provide Hope relief efforts in the former Soviet Union.

He served as the Director for Operations for the Unified Task Force Somalia for Operation Restore Hope and assistant to the U.S. Special Envoy in Somalia.

In other words, General Zinni is an experienced military expert with hands-on, up-close experience in this area of U.N. peacekeeping operations.

I would like to quote the general's recent response to questions asked him by the Senate Armed Services Committee.

His responses capture my opinion in this matter, and I agree with him to the letter.

I quote the general:

I believe there are certain intervention operations that the U.S. must commit to that are in our national interest, and we must properly prepare our forces for them.

We need a policy and strategy statement that clearly articulates what is expected of our military in these commitments much in the same way we have articulated the requirement in the two MRC strategy.

As a result, we should fund the additive military forces and resources needed.

The only alternative is to establish an isolationist position or to dangerously stretch

our already thin military capability to meet unplanned for commitments in an ad hoc manner.

We certainly should not involve ourselves in commitments not in our interests, but in today's world the things that threaten our national interests are growing more complex and subtle.

Regional instability, drug trafficking, threats to the environment, overwhelming human catastrophes, mass slaughter, threats to democracies, are examples of events that could conceivably involve our interests.

We should attempt to deal with them in an international context to promote burden-sharing and to gain a sense of international legitimacy, but many will require our leadership and participation.

I could not have said it better than General Zinni. He has been on the front lines, and he knows these issues well.

Clearly, we must work together with our allies to establish permanent and competent peacekeeping mechanisms.

An ad hoc approach cannot, and will not, provide us with a consistent and stable methodology and support system for dealing with these world conflicts.

A stable and effective, permanent system is what we need in this unstable, post-cold-war era.

Mr. President, I urge my colleagues to support retention of the provisions in the Defense authorization bill which support these efforts.

Mr. President, I oppose the amendment that is before the Senate at this time. I believe that it is an amendment which is out of reality with the world in which we are now living. This is a world in which we are going to be increasingly faced with the kinds of engagements that are currently underway in places whose names we hardly knew just a few years ago: Somalia, Bosnia, and other locations where the international community is going to be called upon to bring order and to defend democracy.

It is my strong belief to the extent the international community has a well-organized, well-commanded, equipped and trained capacity to undertake those kinds of initiatives, that it is less likely they ought to be called upon to do so. If, for instance, in September 1991, the world community had a capacity to carry out its rhetoric in support of the democratic institution, I think it would have been much less likely that the military in Haiti would have deposed the democratically elected president.

The options that we face, it seems to me, Mr. President, are essentially four. No. 1, we can either retreat into isolationism and deny ourselves the capacity to defend interests which are important to the United States; or, No. 2, we can only accept the capacity to respond to those attacks against our national interests on a unilateral basis; or, No. 3, we can do what we are doing today, participating in joint multinational exercises but typically being poorly organized, high-cost, and requiring supplemental appropriations beyond the budget caps to be financed for the U.S. operations; or, No. 4, we can begin to move toward some rational, coherent policy in terms of these types of operations.

I believe the language in the defense authorization bill takes that fourth road. It will lead to greater cost control. It will lead to the Department of Defense.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Mr. President, will the Senator from Georgia yield 30 additional seconds?

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from Florida, and then 3 minutes to the Senator from Massachusetts following that.

The PRESIDING OFFICER. The Senator from Florida may proceed for an additional 1 minute.

Mr. GRAHAM. Mr. President, I believe the language in the defense authorization bill will move us toward having an international capacity with major U.S. leadership involvement which is both effective in terms of its military capability and efficient in terms of cost, and places the responsibility for our combat troops where it should be placed—with the Department of Defense.

Mr. President, I close by suggesting that this debate is only an early chapter in the longer book, in which the United States will begin to find its way to participate in multinational operations. I hope that we do not close that book prematurely by adopting this amendment and frustrating our ability to be rationally involved in such an important engagement.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KERRY. Mr. President, thank you.

I rise to oppose this amendment, and ask colleagues to measure carefully the increase of responsibilities that we have assumed, all of us as a country, equally under the requirements of the United Nations and the votes that have taken place both here in the Senate and in the United Nations.

I also ask them to measure carefully what the President has undertaken here to separate the requirements of chapter 7 and the need to try to reflect the accuracies of our Federal budget crisis.

The State Department simply cannot afford, nor will Congress vote, to give the State Department adequate funding to cover all of peacekeeping. Congress likewise does not want to face up to the reality of what our requirements are under the Defense Department.

So the President has drafted a careful program to try to divide those responsibilities between Defense and State, and also to make certain that these funds would only be spent in those cases where American troops are in fact involved. And under the new requirements of our peacekeeping decisions, that will only be with consultation with Congress and through a process of public debate.

So, in effect, what the Senator is seeking to do is to deny us the very ability to be able to pay for what in the future we are going to decide. I do not think anything could be more irresponsible than precluding our capacity to fulfill our obligations for world leadership at this point in time.

The simple reality is that the United States, if we are going to fulfill our role in the world, is going to be called on to take part in peacekeeping and to support peacekeeping.

This particular measure goes to the question of where we take part in peacekeeping. If the Senator is deeply concerned about readiness of our troops and capacity of our troops to do the job and be protected, to have them participate, but not able to take the funding and to put the President in the predicament of not being able to adequately support them would be the worst of all worlds.

So I hope my colleagues will reject this amendment, recognizing that it simply runs contrary to the responsibilities that we have already accepted and that we face if we are going to protect the national interests of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Georgia has 2 minutes and 9 seconds; the Senator from Idaho has 6 minutes and 51 seconds.

Mr. NUNN. Mr. President, I am prepared to yield back all the time on this side if the Senator from Idaho is. We do not see anyone else who wants to speak.

Mr. KEMPTHORNE. Mr. President, I would like to make closing comments.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

First, may I ask that Senator CRAIG be made a cosponsor of this amendment?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed by a number of Senators to the Assistant to the President for National Security.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 24, 1994.

Hon. ANTHONY LAKE,
Assistant to the President for National Security, The White House, Washington, DC.

DEAR MR. LAKE: Pursuant to a request from your staff, we are writing to share our

views on the Administration's pending peacekeeping policy review. This review is particularly timely in view of the recently released unclassified CIA assessment which details 36 current or proposed peacekeeping operations—far more than is generally recognized.

At the outset we want to express our support for your statement last month that "peacekeeping is not at the center of our foreign or defense policy." We also appreciate the opportunity to comment on this important policy initiative of the Clinton Administration. As a result of the consultation process begun last year, we have become familiar with the draft concepts and ideas on "Presidential Review Directive 13" (PRD–13). As you know, we have supported legislative proposals which would strengthen U.S. policy on peacekeeping, further bipartisan support for U.S. participation in United Nations and other peacekeeping operations, and advance the stated goals of your review.

In the spirit of furthering a cooperative approach to peacekeeping issues, we offer the following comments.

1. U.S. SUPPORT FOR AND PARTICIPATION IN PEACEKEEPING OPERATIONS

First, the proposed criteria for determining whether to support a U.N. operation omit, inadvertently we are sure, American national interest. Clearly, the U.S. should not commit its vote—or its funds or forces—to any operation which does not advance American interests. We urge you to explicitly include calculation of American national interests as the foremost criteria for all decisions to support any U.N. operations.

Second, it is unclear from briefings to date whether these "cumulative" criteria will be applied to U.S. support for extensions, revisions and renewals of ongoing operations. We urge you to apply any criteria just as rigorously to continuation or expansion of ongoing operations as to new or proposed operations.

Third, the criteria lack any reference to reining in the power of the U.N. Secretary General. In recent years, the ability of the U.N. Secretary General to make unilateral decisions directly and indirectly affecting American interests has dramatically increased. In our view, the role envisioned under the U.N. Charter for the Secretary General was for a chief administrative officer—not a chief executive officer, and certainly not a commander in chief. A recent example of such decisions by the Secretary General involves the U.N.-sponsored deployment of troops from countries with ethnic, historical, colonial or religious ties to any side of a conflict. The long-held U.N. position of using neutral troops appears to have been abandoned—with the deployment of Russians at the side of Bosnian Serbs in UNPROFOR, and the proposed deployment of Russians in the former Soviet colony of Georgia in UNOMIG. At the same time, the U.N. Secretary General has refused—apparently unilaterally—offers of troops from certain countries for certain operations. In our view, there are ample administrative duties which should occupy any Secretary General on a full-time basis, reserving politically and financially important decisions on troop deployment and many other issues for the Security Council. We urge you to make such a limitation of the Secretary General's authority a stated policy goal of PRD–13.

2. COST REDUCTION

Reduction of U.S. costs for peacekeeping operations is a goal we all share—especially in light of the exponential growth of such costs for assessed, voluntary and other contributions, and in the incremental costs of Defense Department activities in support of peacekeeping operations. The Administration sometimes justifies U.S. participation in peacekeeping activities as a form of "burden sharing" in the post-Cold War era; cost reduction, therefore, becomes even more important since the U.S. share of the peacekeeping burden keeps increasing. We are concerned, however, that the proposals in the draft PRD–13 will not achieve the goal of reducing U.S. costs.

First, there appears to be inadequate recognition of the waste, fraud, and abuse that accompany United Nations operations; an independent inspector general may be able to expose and limit malfeasance, but PRD–13 should not expect an inspector general to implement large-scale cost containment.

Second, there is no mention of the U.N.'s unilateral decision to raise the U.S. assessment to 31.7%—a decision made during the transition between the Bush and Clinton Administrations. While the Administration is properly refusing to recognize the irregularly increased assessment, this ongoing effort by the U.N. to overbill its largest contributor should be renounced in the PRD. And, the PRD should recognize clearly the implications of such overbilling as we seek to reform United Nations' financial practices.

Third, we urge you to include an explicit statement that the U.S. will no longer recognize U.N. assessments in excess of 25% beginning January 1, 1995. Simply stating the goal of reducing the assessment is not enough; we urge you to include such a clear statement in the PRD.

Fourth, the idea of making benefiting nations bear a greater share of the burden is attractive, but U.N. peacekeeping operations almost by definition occur in countries ravaged by natural and human disasters. The two examples used in briefings (Cyprus, Kuwait) have already assumed some greater burdens; we question whether Somalia, Mozambique, Georgia, Cambodia, Lebanon, Angola, Liberia, Haiti, etc. can bear a greater burden; in fact, including such a reference could very well have the effect of raising unrealistic expectations. We urge you to either specify new, proposed savings resulting from this concept or to delete the reference.

Fifth, the PRD is silent on an immediate and achievable step the U.S. could take which would realize significant cost savings: Seeking and receiving full credit for U.S. contributions to peacekeeping operations. For example, the U.S. is providing some $45 million this year for police and judicial programs in Somalia directly related to UNOSOM, yet the Administration has not even sought to have these contributions credited toward the U.S. assessment. Likewise, the U.S. is providing some $30 million in support of UNOMIL in Liberia, yet no credit for the U.S. assessment has been sought. We urge you to make receiving full credit for U.S. contributions directly related to U.N. peacekeeping operations a goal of PRD–13.

Sixth, we urge you to add termination of peacekeeping operations which are not achieving their stated purposes as an explicit cost reduction measure in the PRD. The PRD should delineate clear guidelines for evaluating the effectiveness of peacekeeping activities, and clear guidance for the U.S. to oppose extension of operations which do not meet those guidelines.

3. COMMAND AND CONTROL

We have grave reservations about the proposed provisions on command and control.

First, the PRD fails to recognize that the U.N. is not now, or for the foreseeable future, an organization that can conduct military combat operations—which are evidently part of your peacekeeping definition. Recent events in Bosnia make this point abundantly clear, given the delay of many hours in seeking U.N. officials' approval for close air support for U.N. forces under attack, and the shocking revelation that a U.N. official actually tried to contact the political leaders in control of the aggressor forces. Ultimately, no action was taken due to the delays and, possibly, the warnings given Bosnian Serb forces. This type of paralysis, warning to the aggressor, and lack of coordination should never occur in military operations and would be scandalous if it occurred in a U.S. operation; yet such events seem to typify current U.N. command and control arrangements. We urge you to recognize the U.N.'s institutional shortcomings in the PRD—not to simply gloss over them.

Second, the draft PRD does not appear to recognize the unique risk to Americans serving in U.N. operations. The experience in Macedonia—which so far has not resulted in the targeting of American peacekeepers—is not sufficient to warrant complacent treatment of this sensitive issue. In our view, the tragic experience of Lieutenant Colonel William Higgins in Lebanon serves as a reminder of both the risk to American personnel, and the inability of the U.N. to protect its peacekeepers even in Chapter VI operations. The ambiguous status of captured peacekeepers under international law—including questions over the applicability of the Geneva Conventions—should be clarified in the PRD. We urge you to add specific recognition of the unique risks to American military and civilian personnel to the criteria in the PRD to be addressed before any deployment of U.S. armed forces under foreign command.

Third, we are deeply disturbed over the apparent deletion of a reference to U.S. armed forces under foreign command being able to refuse militarily imprudent orders. The readiness, training, ability and leadership of U.S. military personnel is second to none; unfortunately, the same cannot be said of foreign commanders who will have operational or tactical control of U.S. forces in current or future peacekeeping operations under the Administration's proposed policy. It is our understanding that the draft PRD at one point included clear guidance specifying that militarily imprudent orders, as well as orders illegal under international or domestic law and orders outside the mandate of the mission, were to be rejected on the spot by American military personnel. We are disturbed that this has apparently been replaced by language directing American personnel placed under foreign command to "phone home" to consult on orders which are illegal or outside the mission's mandate—and that the crucial reference to militarily imprudent orders has been deleted. We urge you to grant express authority for U.S. personnel to refuse militarily imprudent orders as well as illegal orders; anything less than such clear authority in the PRD only increases the possibility of American casualties due to inept or incompetent foreign command.

Finally, we note that the conditions the PRD lays out for foreign command of U.S. forces are very similar to those included in section 4 of the Peace Powers Act (S. 1803). We urge you to specifically reference the certification process proposed by this legislation in the PRD, which would strengthen the

partnership between the Executive and Congress on this issue.

4. UNITED NATION'S CAPABILITIES

We are disturbed by some elements of the proposed efforts to "strengthen" U.N. capabilities. First, we question the need to dedicate U.S. resources to the already bloated U.N. public affairs efforts. While some U.N. capabilities may deserve U.S. support, we do not believe U.S. support for U.N. public information, public affairs, or propaganda efforts is wise or appropriate.

We also question the prudence of support for U.N. intelligence capabilities. Any intelligence provided to the U.N. must be assumed to be subject to nearly immediate compromise. The issue of U.N. intelligence capabilities also beg important questions about how far such capabilities would extend—will the U.N. develop an independent intelligence collection capability? Will the U.N. develop a special operations, clandestine, or covert action capability? These and other concerns led us to propose section 16 of S. 1803, which would require any intelligence be shared with the U.N. only pursuant to an agreement that has been reviewed by the Senate Select Committee on Intelligence. We urge you to move very slowly on an expansion of U.N. intelligence activities, to spell out exactly what the PRD proposes on this sensitive issue, and to proceed with intelligence sharing only with the complete concurrence of all elements of the intelligence community.

5. U.S. FUNDING

The draft PRD does not adequately address the central issue of U.S. funding for peacekeeping—specifically the claimed shortfall of over $1,000,000,000 by the end of Fiscal Year 1994. We note the Administration only requested $617 million at the time of its FY 94 budget submission, and more than $400 million was appropriated. Just as current assessments were woefully underestimated, we are concerned that future estimates are likewise underestimated.

First, it seems clear that the Administration request of $300 million for FY 95 peacekeeping for all Chapter VII and Chapter VI operations with U.S. participation is insufficient to meet expected assessments; we note that the U.S. currently estimates an assessment of nearly $400 million for FY 95 for just one Chapter VII operation. Since it seems doubtful that U.N. costs will reduce in any significant fashion in FY 95, the $300 million request level needs revision to be considered seriously by the Congress. Accordingly, we urge you to consider all aspects of FY 94-95 funding as a priority issue within the PRD process.

Second, we note that incremental costs of DoD participation in peacekeeping operations is also not included in the PRD section on U.S. costs. The Congress has already appropriated $1.2 billion in an emergency supplemental for FY 94 costs already incurred, yet there is no effort to project, plan for, or request funds for incremental costs of DoD participation in peacekeeping operations. We urge you to do so as part of the PRD process.

Third, we have a number of serious questions—and practical concerns—over the proposed "Shared Responsibility" concept. Such questions include: how DoD will "manage". Chapter VII operations which have no American troops deployed; whether DoD will be responsible for unbudgeted costs incurred due to underestimates of assessments of Chapter VII (and Chapter VI operations with U.S. combat units deployed); whether DoD will have input into specific operations to be supported by the U.S. in the Security Council in keeping with DoD's proposed funding and management responsibilities; and how management of an operation would shift from State to DoD or vice versa if the U.N. authorization or U.S. force component changes after an operation has been initiated.

Because so many questions and issues associated with this proposal remain unresolved, we urge you to defer this portion of the PRD for the time being.

6. CONGRESSIONAL SUPPORT

While we appreciate the opportunity to comment on the proposed PRD through the consultation process, we note that consultation on peacekeeping operations themselves has been less than optimal. We also note that the Administration opposed every section of the Peace Powers Act, including the provisions on consultation, and has opposed related provisions added during Senate consideration of S. 1281, the Foreign Relations Authorization Act, despite great efforts on our part to accommodate stated Administration concerns. While the PRD no longer calls for revisions in the United Nations Participation Act, we believe that legislation needs substantial alteration. Finally, we note that despite the more than year-long review in the PRD process, no legislation has yet been submitted to the Congress.

We urge you to include precise clarification of the circumstances under which Congressional approval of deployment of U.S. armed forces in peacekeeping operations would be sought. We are concerned that the Administration's commitments on this vital issues are ambiguous. The PRD should clear up this ambiguity.

There are numerous issues related to U.S. participation in peacekeeping that are not addressed in our previous comments. For example, U.S. acquiescence in or support for Russian peacekeeping in the Newly Independent States is a matter of utmost national security interest for our country; yet, decisions appear to have already been made without serious Congressional consultation.

While the draft PRD is not yet finalized, we are aware that your review is nearly complete. We are also aware of your intention to release a modified, public version of the resulting PDD. We urge you to provide, on a classified basis if necessary, the actual PDD and all annexes to the appropriate committees of Congress before the document is finalized. We also urge you to provide the same documents in their final form. We hope we can work together to fashion a bipartisan U.S. approach to peacekeeping policy.

Thank you for the consideration of our views.

Sincerely,

Bob Dole, Ted Stevens, Mitch McConnell, Don Nickles, Richard Lugar, Thad Cochran, Pete Domenici, John Warner, Jesse Helms, Larry Pressler, Paul Coverdell, Strom Thurmond.

Mr. KEMPTHORNE. Mr. President, I think that during this debate, we have pointed out statistically that the United States is paying more than its fair share.

I will quote now from a letter from Anthony Lake, Assistant to the President for National Security Affairs. It states:

The President's policy covers six major aspects of reform and improvement.

And one of these is:

Reducing U.S. and U.N. costs for peacekeeping operations.

I applaud that. Here is an opportunity to reduce those costs. It has been stated also that we only have to pay where we have U.S. troops involved. But there is a very important distinction, and that is those U.S. troops have to be under U.N. command in order for the United States to receive reimbursement. That troubles me greatly.

Mr. President, we have also noted the letter that was written by General Shalikashvili. It was then referenced that somehow it applied to this amendment.

Let me also read to you from a report from the Chairman of the Joint Chiefs of Staff, General Shalikashvili, a report to the Congress on 1994 force readiness assessment. Here is what they say:

The current pace of operations of U.S. forces throughout the world threatens our ability to maintain a high degree of readiness to meet all contingencies. The CINC's have noted that the transfer of operations and maintenance funds to support operations in Somalia, the Persian Gulf, the former Republic of Yugoslavia, and other contingencies has reduced operational readiness.

That is the Chairman of the Joint Chiefs of Staff.

I will note also, Mr. President, that the House of Representatives has rejected this provision of taking $300 million from the Department of Defense budget.

My closing remark is this, Mr. President. I do not think anybody disputes that we have a troubled world. The cold war may be over. But it is a troubled world with conflicts arising everywhere. We talk about the fact that for 10 years, we have been reducing the defense budget. We talk about the fact that we are probably approaching the point that we are going to have a hollow force because historically the United States has done this every time after we have disarmed from major conflict.

I am not saying we should not pay for peacekeeping with the United Nations. But pay for it from the State Department, not the Department of Defense.

Mr. President, that $300 million ought to remain in the Department of Defense budget to be directed with recommendations from people like the chairman, Senator SAM NUNN and the ranking member, Senator STROM THURMOND, based on recommendations by General Shalikashvili, rather than turning this over to the United Nations and having Boutros Boutros-Ghali determining where that $300 million is spent.

That is what this amendment does. It keeps the priorities where they should be, and that is, with regard to readiness, the $300 million remains in the Department of Defense.

I yield back my remaining time.

Mr. DOLE. Mr. President, this is an excellent amendment. There is no reason to pay for U.N. Secretary General Boutros Boutros-Ghali's adventures. In this fiscal year, the United States will spend far in excess of $2.2 billion for peacekeeping. Despite a much-publicized new policy on peacekeeping, this administration persists in approving and extending peacekeeping operations. In the course of the review which led to the new policy, Senate Republicans urged the administration to refrain from raiding the defense budget, and to reject using Defense Department funds to pay U.N. assessments. Unfortunately, the administration rejected our advice.

Many of us believe that we have cut too much from the defense budget already, especially for readiness. This administration has not requested enough money for the exploding international entitlement program of U.N. peacekeeping. While only $833 million is requested for fiscal year 1995, the United Nations will assess at least an additional $1 billion for the U.S. taxpayer to finance. We will soon be faced with a supplemental appropriation legislation with $670 million for peacekeeping costs this year.

There is no reason to spend our scarce defense dollars on U.N. peacekeeping. American readiness needs are too great. I would hate to see accidents or casualties in the future due to a lack of readiness funds—this amendment will help avert that outcome. The House explicitly prohibited using defense funds for U.N. assessments. We should follow the same prudent course and adopt the Kempthorne-McCain amendment.

Mr. NUNN. Mr. President, I will take 30 seconds in closing my argument, and I will yield.

I want everybody to understand that the only way this $300 million can be spent and can be sent to the United Nations is, if the President of the United States decides under the procedures we have set up in this bill, which requires advance notice to Congress—if the President decides to send American combat troops to the particular peacekeeping operation. In other words, if we have not decided to put in combat troops, this money will not be eligible to be sent to the United Nations.

At this stage, I yield the remainder of my time.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Kempthorne amendment which is pending before the Senate.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—35

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Coats	Gregg	Pressler
Cochran	Hatch	Robb
Cohen	Helms	Roth
Coverdell	Hutchison	Simpson
D'Amato	Kempthorne	Smith
Danforth	Lott	Stevens
Dole	Lugar	Thurmond
Domenici	Mack	

NAYS—60

Akaka	Ford	Mikulski
Baucus	Glenn	Mitchell
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Moynihan
Boren	Hatfield	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Packwood
Breaux	Jeffords	Pell
Bryan	Johnston	Pryor
Bumpers	Kassebaum	Reid
Byrd	Kennedy	Riegle
Campbell	Kerrey	Rockefeller
Chafee	Kerry	Sarbanes
Conrad	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dorgan	Levin	Specter
Durenberger	Lieberman	Warner
Feingold	Mathews	Wellstone
Feinstein	Metzenbaum	Wofford

NOT VOTING—5

Craig	Exon	Wallop
Dodd	Inouye	

So the amendment (No. 1849) was rejected.

AMENDMENT NO. 1840

The PRESIDING OFFICER. The pending amendment before the Senate is amendment No. 1840, offered by Senator JOHNSTON.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening, as I am advised by the manager that good progress has been made during the day today and no further progress this evening is possible, except on amendments that will be accepted. I understand that the managers will be here to consider such amendments.

We have reached a point in this legislative session where the amount of work to be completed far exceeds the amount of time within which to do it. It is therefore necessary that we be in session tomorrow to ensure the presence of Senators.

There will be a vote at 9:30 a.m. and there will be more than one vote tomorrow. I repeat, there will be more than one vote tomorrow. There may be several votes tomorrow, including procedural votes, if necessary, to ensure the presence of Senators during the day, as it is imperative that we make further progress on this bill, and we have a number of other measures on which action must be taken before the Senate leaves for the July 4 recess next Friday.

In view of the fact that I would like to finish this bill tomorrow and the number of other matters on which action will be necessary to be completed, Senators should be aware and should expect very late sessions every night next week through and including Friday, unless the pace quickens in a way that has not been apparent and is not now apparent. So Senators should be aware of that.

I repeat, there will be a vote at 9:30 a.m. There will be more than one vote, possibly several, including procedural votes, if necessary, to ensure the presence of Senators, and votes are possible throughout the day tomorrow, at least until 3 p.m.

Next week, votes will be possible and votes will be likely throughout the day Tuesday through Friday and possibly on Monday. I issued a prior statement with respect to the possibility of votes on Monday and will make a decision and an announcement on that tomorrow, depending upon what progress is made on this bill during the day tomorrow.

Mr. MURKOWSKI. Will the leader yield for a question?

Mr. MITCHELL Yes.

Mr. MURKOWSKI. As I understood the leader's comments with regard to Monday, you are going to make a decision prior to 3 o'clock tomorrow on the schedule for Monday?

Mr. MITCHELL. That is correct.

Mr. MURKOWSKI. We have been notified that there may be votes on Monday, but I was not aware that they were going to start prior to the afternoon on Monday.

Mr. MITCHELL. That is correct; they will not start prior to 6 p.m.

Mr. MURKOWSKI. But you will advise us prior on your decision on how late we will go tomorrow and on the schedule for Monday?

Mr. MITCHELL. That is correct.

Mr. MURKOWSKI. It would be very helpful, because I am planning to go back to Alaska and the last plane I can catch is the 2:20 plane, but I can make that.

But if I come back and have to make votes on Monday—and I realize the Senate does not mind my inconvenience; but, nevertheless, I have to do what I have planned—if I leave there at 7 a.m, which is the first flight I can get, and fly all day Monday, I will get here at 8 o'clock.

So whatever the leadership can do, obviously, I would appreciate it.

I thank the leader.

Mr. MITCHELL. I will, as always, do my best to accommodate the Senator from Alaska, and will, of course, take his schedule into account in making the decision.

Because of its rules, the Senate schedule is inherently uncertain and not fully predictable. I will do my best to make it as certain and as predictable as possible, but, as you know, circumstances do not always permit that.

Further, I want to say that, at least in recent weeks, the practice has developed where enough Senators leave, simply leave, and then call back from wherever they have gone attempt to make it a self-fulfilling prophecy that there will not be any votes in their absence. That is the reason we are going to have to have votes tomorrow.

So any Senator who leaves and is not here tomorrow knows that he or she, with certainty, will miss a minimum of two votes and possibly more. It is the only way we can ensure the presence of sufficient Senators to conduct the business. Therefore, that is what we will have to do.

I thank the Senator from Georgia and my colleague, the Senator from Maine, for their work on this matter and hope we can make some progress on the bill tomorrow.

Mr. MURKOWSKI. I thank the majority leader.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I just want to let everyone know that we have a number of amendments that people have indicated they want to bring up, and we have a number of amendments that are going to require rollcall votes before this bill is completed.

The more we can get done now, that means the more likely it is we will not be staying here next Friday night until 11 or 12 o'clock. So I hope everyone who has an amendment would be willing to have a meaningful debate and a vote on that amendment tomorrow morning, if at all possible. We will have some discussion on a Bosnia amendment, but there will be no vote on that one until next week. We will have discussion on a B–2 amendment. I am not certain when a vote on that one will occur.

But there will be some important matters discussed tomorrow, and I hope we can—I know other amendments are going to require rollcall votes. For instance, the Senator from New Jersey, Senator BRADLEY, has an amendment to eliminate selective service. That will require a rollcall vote. We could handle that one tomorrow if the Senator from New Jersey could be here and present it. We could handle a Warner ABM amendment tomorrow if the Senator could be here and present that one. We could handle a Feingold amendment on uniform medical school tomorrow. I hope one or two or three of those amendments will be presented.

In addition to that, I want everyone to know I will be here at least for another hour, as long as we can do business tonight, to examine any amendment any Senator believes might be able to be accepted. We will discuss it with them. We will see if we can accept it. We will begin working on it on both sides, and we can make progress in that regard. So I plan to be here for at least an hour and as long as necessary tonight, as long as we can continue to work amendments.

I hope anyone who has an amendment that they want us to take a look at tonight or tomorrow, I hope they will come over and give it to us tonight and let us begin working on it.

The same can be said tomorrow morning. We will be here debating amendments that will probably require rollcall votes, but we will also be receptive to looking at any amendment that is presented. I hope people will take advantage of that. It is inevitable we are going to get into a time crunch next week. If Senators want due consideration of their amendments, this is the time to debate them, rather than waiting until we get into a crunch next week when there may be an urge to table people's amendments and with people voting almost automatically on those tabling motions without the same kind of careful consideration that can be done on the early stages of the bill.

My bottom line is we will be here an hour at least or longer if necessary on both sides to look at amendments, and I encourage those who have amendments to bring them over. I thank all Senators for their cooperation. We have had meaningful progress made today. There is going to be meaningful debate tomorrow morning on both Bosnia and on the B–2 strike amendment.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR SAFETY

Mr. COHEN. Mr. President, shortly after taking office last year, the Clinton administration undertook a significant reorganization of Department of Energy and some of the elements of DOE's reorganization many think were highly commendable. Others, I might point out, caused me some concern at the time and particularly the fate of the Nuclear Safety Office.

Under DOE's reorganization, the Nuclear Safety Office was folded into the Office of Environment, Safety, and Health. And the Office of Nuclear Safety is responsible for providing independent safety oversight of DOE's nuclear facilities. It is the only inhouse check on nuclear safety that is independent of those who manage DOE nuclear facilities.

Now, partly in response to the criticisms from Members of Congress and others, DOE transferred the Nuclear Safety Office intact without reducing its staffing, at least initially. And while this also was a welcome decision, the reorganization had other effects on nuclear safety oversight that were of continuing concern.

In order to have a sound basis for evaluating this matter, last April I asked the GAO to review DOE's restructuring of the nuclear safety oversight and to evaluate whether the proposed changes would improve or detract from DOE's ability to ensure nuclear safety. What the GAO found remains disconcerting. After its yearlong review, it reached three basic conclusions.

First, that DOE does not currently have an adequate number of qualified staff to oversee nuclear safety.

Second, DOE does not have a mechanism to ensure that nuclear safety issues are elevated up the chain of command until they are resolved. As a result, DOE may fail to take action to correct known safety problems "potentially posing unnecessary risk to workers and to the public." This organizational flaw is particularly important because nuclear safety oversight officials told GAO that some DOE nuclear plant managers have become less responsive since its reorganization was adopted last year.

Third, most importantly, GAO found that the independence of the nuclear safety oversight officials is compromised because they are now being directed to provide management assistance to those that they oversee. The regulators are, in effect, being told to become part of the plant management, undermining their ability to regulate in an objective, independent manner.

Mr. President, I am prepared—and I was prepared this afternoon even—to offer an amendment that would hopefully make improvements on what has taken place with this reorganization plan. Because of the GAO report which was released publicly, and because of the questions that it raised, I agreed to meet with some DOE officials this afternoon. And I spent considerable time listening to the counter arguments that were made on behalf of Secretary O'Leary. I must say that I think

the arguments that were raised to counter the GAO's investigation had some merit.

So as a result of this afternoon's deliberations which consumed a good part of the latter part of the afternoon, I hopefully will be able to work out some kind of a compromise that will achieve the objectives certainly of the reorganization plan that the Secretary has in mind but also to ensure that there really is objective, independent oversight.

It is sort of a catch-22 problem that they have. On the one hand, DOE would like to take the expertise of those individuals who go on to the plants to go to the on-line plant managers, assist them, and give technical assistance.

There is a commendable aspect to that. But once you become part of the so-called management team, or even appear to be part of the team to ensure safety, then you tend to lose at least some measure of that independence that you are the overseer, and you are the one to be critical. It is hard to be critical of the team approach to this.

I think the Secretary is very much aware, and she would like to see a separation of that function. Essentially, I believe what will be arrived at through this compromise will be a separate, independent office of nuclear safety oversight that a number of individuals within that office may from time to time be assigned to individual nuclear plant sites perhaps to give technical assistance. Those same individuals would not however be in a position to then conduct any oversight of that facility.

So, in other words, we will be dividing up the personnel to send individuals who might be giving technical assistance to on-line plant managers' recommendations to ensure the safety of the workers and the public and to separate them from then being part of the oversight process for that plant.

It sounds to me like, at least in theory, I hope in practice, that we can achieve the maintaining of that independent spirit within the oversight board as such.

In theory, I say it may work out. We will have to wait and see how it is worked out in practice. But I am prepared to work with the administration to achieve a common goal; that is, to make sure that we provide the best possible safety measure that we can take for the workers and for the surrounding communities and the public at large.

So I will offer an amendment, not this evening, but perhaps not even tomorrow, but only after we have worked this with the administration, to come up with what I believe will be an acceptable compromise.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, apparently, no one is going to come over to present any amendments this evening. I see no need to keep these hard-working people around here, Senators excepted.

CHANGE OF VOTE

Mr. NUNN. On rollcall vote No. 165, Senator EXON was present and voted "no." The official record listed him as "absent". Therefore, I ask unanimous consent that the official record be corrected to accurately reflect his vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREG SCHNACKE

Mr. DOLE. Mr. President, I rise today to recognize a member of my staff who is leaving. He comes from my home State of Kansas. I have known his father. I have known Greg Schnacke as he grew up in Topeka, KS. But after 9 years of dedicated service to me in my Kansas office and the Hart Building and the U.S. Senate, Greg is going to move on to Colorado.

The people of Kansas know Greg as someone who can get the job done. Whether it was working with Kansas communities on major legislative issues, making sure that small towns had tornado sirens to help protect the lives of their residents, or assisting individual Kansans with day to day problems, Greg always gave 110 percent.

On the legislative front Greg Schnacke is a recognized expert in a variety of complex issues ranging from transportation to environmental issues. During debate on the 1990 Clean Air Act, he worked tirelessly to help me ensure that the legislation struck a balance between legitimate environmental concerns and the needs of small businesses and communities in Kansas and across the country. From energy to airports, Greg Schnacke was sought out by Members of the Senate for his expertise and sound judgment.

My loss is the Colorado Oil and Gas Association's gain. Greg will be the first executive director of this new organization. I appreciate all of Greg's hard work over the years and I am certain that he will distinguish himself in his new role.

Mr. President, the Senate and I will greatly miss the assistance and presence of Greg Schnacke but I extend my best wishes and a heartfelt, thank you to Greg, his wife, and his children for a job well done.

TRIBUTE TO PAT WADE

Mr. DOLE. Mr. President, it has been said that the most important impression is the first impression. And for the last 9 years, the person making the first impression in the Office of the Republican Leader has been Pat Wade.

Pat recently joined Senator LOTT's staff, and I wanted to thank her publicly for the outstanding job she did for me—and for all Republican Senators.

A lot of people walk through the doors of the Republican Leader's office—Presidents, Prime Ministers, Hollywood celebrities, and tourists from every State in the Union visiting their Nation's capital.

And Pat treated every visitor exactly the same—with courtesy and with hospitality. Well, I do have to admit that she did treat some visitors differently—and that is anyone who was from Tennessee—her home State.

Pat is a native of Tennessee, and I think everyone in that State was her friend. But then, everyone who Pat greeted in the office instantly regarded her as a friend.

My office joins me in extending our thanks to Pat, and our best wishes as she continues to serve the U.S. Senate.

TRIBUTE TO MEGHAN McMURTRIE

Mr. DOLE. Mr. President, many talented young people begin their capitol hill experience as interns, and work their way up as they learn the ropes.

A year and a half ago, Meghan McMurtrie joined the staff of the Republican Leadership Office. And instead of giving her a chance to learn the ropes, we threw her right into the fire, as one of the receptionists in the outer office.

From the very beginning, Meghan was asked to handle the countless requests and phone calls that came to her desk, and to greet the constant flood of people who come into the office.

And from the very beginning, she handled all these duties with great skill and good humor.

On behalf of my office, and all Republican Senators who relied upon her, I want to thank Meghan for a job well done, and wish her luck as she leaves my office to enter graduate school.

THE 1994 ELLIS ISLAND MEDAL OF HONOR RECIPIENTS: RECOGNIZING PEOPLE DEDICATED TO ETHNIC DIVERSITY

Mr. PRESSLER. Mr. President, as I speak today, ethnic conflicts rage around the globe. Peace and unity among people of different races, religions, and ethnic heritage seem impossible in some regions of the world. Yet, despite ethnic turmoil and disputes, courageous people continue to dedicate their lives to achieving the goals of peace and prosperity.

I take this opportunity today to recognize and to congratulate several persons who have dedicated their work and efforts to creating unity among ethnically diverse people of the world. The National Ethnic Coalition of Organizations [NECO], through its Ellis Island medal of honor, recognizes the achievements and efforts of individuals who are committed to the appreciation of ethnic diversity. This prestigious award acknowledges the labors of those willing to dedicate themselves to unity and peace.

I offer special recognition for the work of William Fugazy, chairman of the board of the NECO, and Rosemarie Taglion, events manager for the Ellis Island award gala. The vision and leadership of these two individuals deserve the highest praise. Rosemarie and Bill have worked extremely hard to ensure that the beauty and tradition of the Ellis Island honor award continues.

The Ellis Island ceremony, which I attended in May 1994, was one of the most moving and beautiful I have ever experienced. As a U.S. Senator, I see a number of events here in Washington and abroad, but this event was especially wonderful. I was honored to receive the medal of honor, and I consider it one of the highest honors of my lifetime. Having three grandparents who were immigrants, I hold this honor dearly.

Mr. President, in recognition of the esteemed recipients of the 1994 Ellis Island Medal of Honor and those involved with the National Ethnic Coalition of Organizations, I ask unanimous consent to place a list of the recipients' names in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRATULATIONS TO THE 1994 ELLIS ISLAND MEDAL OF HONOR RECIPIENTS

Peter R. Abeson, Norwegian/German, Business/Community Leader.

Elena Diaz-Verson Amos, Cuban, Community Leader.

Carlos R. Barba, Cuban, Business Leader.

George E. Barbar, Lebanese, Business Leader.

M. Ann Belkov, Polish/Russian, Superintendent, Statue of Liberty & Ellis Island.

William C. Beutel, German/English, Television Broadcaster.

Dr. Jagdish Bhagwati, Asian Indian, Educator.

Owen Bieber, German, Labor Leader.

Hon. William J. Bratton, Irish, Police Commissioner.

Eric Breindel, French/Polish, Journalist.

Donald P. Brennan, Irish, Business Leader.

Hon. Stephen G. Breyer, Romanian/E. Prussian/German, Federal Judge.

Norman R. Brokaw, Russian, Theatrical Talent Agent.

Daniel D. Broughton, M.D., Irish, Physician/Child Advocate.

Stephen L. Bruce, Polish/German, Restaurateur.

Paul W. Bucha, Ukranian/Croatian/Slovak, Business/Community Leader.

Victor Cardoso, Portuguese, Business/Community Leader.

Hon. Robert P. Casey, Irish, Governor of Pennsylvania.

Narses J. Colmenares, Venezuelan, Electrical Engineer.

E. Gerald Corrigan, Irish, Business Leader.

Hon. Ramon C. Cortines, Mexican, Educator.

Joseph F. D'Angelo, Italian, Business Leader.

Raymond V. Damadian, M.D., Armenian/French, Scientist/Inventor.

Hon. Walter G. Danielson, Swedish, Consul General Emeritus.

Frank J. Defino, Sr., Italian, Business Leader.

Hon. William A. DiBella, Italian, Connecticut State Senator.

Jeannette B. DiLorenzo, Romanian, Educator/Labor Leader.

Hon. Angier Biddle Duke, English/Irish/Spanish (Former) US Ambassador.

Philip B. Dusenberry, English, Business Leader.

Siri M. Eliason, Swedish, Community Leader.

James C. Esposito, Swiss/Irish/Italian, Federal Law Enforcement Leader.

Steven T. Florio, Italian, Business Leader.

Hon. Raymond L. Flynn, Irish, U.S. Ambassador to the Vatican.

Steve E. Fochios, M.D., Hellenic Physician.

Eugene M. Freedman, Russian, Business Leader.

Nicholas Gage, Hellenic, Author.

Manuel Orlando Garcia, M.D., Argentinian, Educator/Radio Host.

Hon. Phil Gramm, German, United States Senator.

Richard A. Grasso, Italian, Business Leader.

Joseph M. Haggar, Jr., Lebanese, Community Leader.

Michel T. Halbouty, Lebanese, Scientist/Educator/Author.

John R. Hall, English/Welsh, Business Leader.

Mel Harris, Russian, Business Leader.

Lawrence Herbert, Russian, Business Leader.

Edgar M. Housepian, M.D., Armenian, Educator/Neurosurgeon.

Dolores Huerta, Mexican, Labor Leader.

Hon. Romolo J. Imundi, Italian, U.S. Marshal.

Niels W. Johnsen, Norwegian/English/French, Business Leader.

Daniel R. Kaplan, Lithuanian, Attorney/Community Leader.

Harold E. Kelley, Scottish/Irish, Attorney/CPA.

Jae Taik Kim, Ph.D., Korean, Community Leader.

Joseph C. Krajsa, Slovak, Editor/Publisher.

Kenneth F. Kunzman, German/Irish, Attorney.

Hon. Frank R. Lautenberg, Polish/Russian, United States Senator.

Haskell L. Lazere, Romanian, Community Leader.

Richard C. Leone, Italian, Business/Community Leader.

James R. Leva, Italian, Business Leader.

Edward Lewis, African-American, Business Leader.

James P. Linn, English/Irish, Attorney.

Thomas P. Maguire, Irish, Labor Leader.

Donald B. Marron, English, Business Leader.

Peter W. May, German/Hungarian, Business/Community Leader.

Daniel R. McCarthy, Irish/English, Attorney.

William P. McComas, Scottish, Business Leader.

James A. McManus, Scottish/Irish/English, Business Leader.

Lenore Miller, Polish, Labor Leader.

Arthur J. Mirante, II, Italian, Business Leader.

Magnus Moliteus, Swedish, Business Leader.

William J. Morin, French/German, Business Leader.

James T. Morris, Welsh, Business/Community Leader.

Bruce Morrow, Russian/Austrian/Polish, Radio Personality.

Josie C. Natori, Filipino, Business Leader.

Peter H. Nozensky, Polish/Russian, Business Leader.

Brian O'Dwyer, Irish, Attorney.

Richard E. Oldenburg, Swedish, Museum Director.

Harry Orbelian, Armenian, Business/Community Leader.

Edward Panarello, Italian, Labor Leader.

Nelson Peltz, Austrian/Russian, Business/Community Leader.

Peter G. Peterson, Hellenic, Business Leader.

Hon. Nicholas C. Petris, Hellenic, California State Senator.

Joseph J. Plumeri, II, Italian, Business Leader.

Hon. Larry Pressler, French/German, United States Senator.

Burton P. Resnick, Russian/Polish, Business Leader.

Jens M. Rommerdahl, Danish, Business Leader.

Peter M. Ryan, Irish, Business Leader.

H.E. Metropolitan Philip Saliba, Lebanese, Religious Leader.

James J. Schiro, Italian, Business Leader.

James S. Scofield, Hellenic, Community Leader/Journalist.

Marvin Scott, Austrian/Polish, Television Broadcaster.

Rosanna Scotto, Italian, Television Broadcaster.

Henry T. Segerstrom, Swedish, Community Leader.

Kay Lande Selmer, Norwegian, Entertainer.

Myung Hwan Seo, Korean, Community Leader.

Ted Shapiro, Russian/Polish, Business Leader.

Jerry J. Siano, Italian, Business Leader.

Muriel F. Siebert, Hungarian, Business Leader.

Jeffrey S. Silverman, Russian, Business Leader.

Aileen Riotto Sirey, Ph.D., Italian, Psychotherapist/Community Leader.

Alfred E. Smith, IV, Irish, Business Leader.

Irwin Solomon, Polish, Labor Leader.

Henry S. Tang, Chinese, Business/Community Leader.

Peter J. Tanous, Lebanese, Business Leader.

Chris Tomaras, Hellenic, Business Leader.
J. Rock Tonkel, English/German/French, Business Leader.
Rep. Robert G. Torricelli, Italian, Member of Congress.
Peter Tufo, Italian, Business Leader.
Alfons Ukkonen, Finnish, Community Leader.
Joseph A. Unanue, Hispanic, Business Leader.
Aleksandras Vakselis, Lithuanian, Community Leader.
Jack Valenti, Italian, Business Leader.
Stephen B. Van Campen, Dutch, Business/Community Leader.
Hon. Guy J. Velella, Italian, New York State Senator.
Harvey J. Weinstein, Austrian/Hungarian, Business Leader.
General Enoch H. Williams, African-American, Military Leader.
Frank D. Wing, Jr., Chinese/Hispanic, government Leader.
Henry C.K. Yung, Chinese, Business Leader.

THE HARKIN/LAUTENBERG TOBACCO LIABILITY BILL

Mr. FORD. Mr. President, today my colleagues from New Jersey and Iowa introduced legislation allowing lawsuits to be filed to recover Medicare and Medicaid costs from illnesses associated with smoking.

I believe the precedent this legislation sets is extremely alarming, but even more troubling are the ramifications this will have on other issues, like health care reform.

My question to them is: What taxes are you going to raise to pay for health care reform, if you are going to kill this industry?

Some of the pending health care reform proposals which rely on punitive levels of tobacco excise taxes for funding are like oversized houses built on cracked foundations. Financing health care reform on a declining revenue base is fundamentally dishonest in the first place. It only delays the inevitable for a few years at most—revising the issue to find additional tax increases or dramatically scaling back the health care package.

The Harkin-Lautenberg proposal being announced today would only accelerate this return for new taxes. The Congressional Budget Office will probably have a difficult time projecting the impact of these new attacks on an already declining source of revenues. But one thing is clear: they accelerate the decline.

It is ironic that some who are the most zealous in seeking punitive tobacco taxes to fund health care also are the most eager to find ways to destroy the very industry which is supposed to provide the revenue. But it is not surprising. The campaign for back door Prohibition is alive and well in Washington. As many of my State fear, Big Brother is very hungry these days.

Every member of the business community should shudder at the proposal being unveiled today, and should be asking "Who's next?" If we are going to start down the road of financing Federal programs through lawsuits, as their legislation would do, everyone should be on notice, from potato chip makers to automobile manufacturers to dairy farmers: You are all at risk.

And if we are going to start down this road, I will do all I can to make sure that the principles of this new proposal, however, flawed, are applied consistently and across the board.

SPEECHES AND EXOTIC CLIMATES

Mr. DOLE. Mr. President, what do Topeka, Kansas City, Hutchinson, Cleveland, Indianapolis, Battle Creek, Sioux Falls, Cedar Rapids, Des Moines, Fort Lauderdale, Newburgh, and Enid, OK, all have in common? According to some media reports, they are exotic climates to which this Senator traveled last year for speaking engagements.

Far from being exotic locations, these were hardly all-expense-paid junkets as some would lead you to believe. As publicly disclosed in the annual financial disclosure form I file each year with the Senate, out-of-town groups asking me to speak simply provided air travel for the purpose of making a speech. No golf. No tennis. No luxury accommodations. Just speeches. All publicly disclosed. In fact, the only night of accommodations provided to me was at the Ramada Inn in downtown Topeka for a speaking engagement.

And I am proud of the fact that some of the speeches I made last year to fine groups were able to benefit worthwhile charities to the tune of $69,450, most of them in my home State of Kansas.

If we are going to be effective Senators, we must get outside of Washington and talk to and listen to people in the real world. We should be able to do that without any media distortion and misleading impressions.

SPACE STATION—A FINANCIAL BLACK HOLE

Mr. COHEN. Mr. President, it has been claimed by the administration that Russian participation in the space station is going to save approximately $2 billion. The General Accounting Office, at my request, looked into the accuracy of the estimates of the National Aeronautics and Space Administration [NASA] that expanded Russian participation in the station would save us the $2 billion figure.

The findings of GAO underscore, once again, the need to terminate this project. I think the space station is a financial black hole. NASA is trying to salvage a project by asserting savings from Russian participation, but NASA's own figures do not support the claims. The space station is a loser, and the American taxpayers will lose even more if we have to continue to foot this bill.

NASA has already spent $10.5 billion on the space station, which is estimated to cost a total of $118 billion to build and to operate. Last November 1, NASA and the Russian space agency formally agreed on a plan to bring Russia into the program. The GAO has said that NASA's $2 billion claimed savings from this expanded Russian participation will be largely offset by an estimated $1.4 billion that would be spent from other portions of NASA's budget as a result of the Russian involvement.

When all the space station-related elements are considered, according to GAO,

Current estimates would indicate that much of the savings NASA attributes to expanded Russian participation will not be achieved. And furthermore,

I am quoting from GAO:

if only part of NASA's estimated $2 billion in savings is attributable to Russian participation, it is possible that expanded Russian involvement could result in little or no net savings.

The GAO has cited a number of additional costs that will result from Russian participation that NASA left out of its calculation of the space station's pricetag, and these will include:

The need for two additional shuttle flights to complete construction of the space station estimated by GAO to be $746 million; a $400 million contract between NASA and the Russian space agency covering fiscal years 1994 through 1997; a higher orbit for the space station which will require $185 million in enhancements to the space shuttle; $73 million to outfit a second orbiter for up to 10 flights to the Russian Mir space station, which is part of the agreement; $10 million to $20 million for increasing the probability of launching the shuttle within a smaller launch window; and because of the changed orbit, the shuttle's launch window of opportunity decreases from 50 minutes to 5 minutes on a given day.

The scientific and industrial benefits of the space station, I believe, have been grossly exaggerated. The money the Nation continues to pour into this project will be much better spent on reducing the deficit and engaging in more meaningful research for the future.

MESSAGES FROM THE HOUSE

At 11:56 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to the bill (H.R. 3355) entitled "An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to

increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety":

In the paragraph naming additional conferees from the Committee on Merchant Marine and Fisheries, Mr. BATEMAN is appointed in lieu of Mr. YOUNG of Alaska.

ENROLLED BILL SIGNED

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 24. An Act to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-518. A resolution adopted by the Senate of the Legislature of the Commonwealth of Puerto Rico; ordered to lie on the table.

"S.R. 801

"Whereas Judge José A. Cabranes has been and is a professional with encompassing juridical knowledge and leadership qualities, with a clear perception of the judicial function in modern society.

"Whereas Judge José A. Cabranes has extensive experience within the American judiciary system and has performed these judicial functions with great efficacy.

"Whereas Judge José A. Cabranes represents the recognition of the Hispanic communities in the United States, of his capacity to perform high functions: Therefore be it

"*Resolved by the Senate of Puerto Rico:*

"Section 1. The Senate of Puerto Rico conveys to the President and to the Congress of the United States, its endorsement, support and recommendation of the appointment of Judge José A. Cabranes as Associate Justice of the Supreme Court of the United States.

"Section 2. A copy of this Resolution, translated into the English language, shall be remitted expeditiously to the President of the United States of America, the Honorable William Jefferson Clinton, to the Presidents and Members of the respective bodies that compose the Congress of the United States of America, and to Judge José A. Cabranes.

"Section 3. A copy of this Resolution shall be remitted to the communications media of the United States and Puerto Rico for its extensive diffusion."

POM-519. A resolution adopted by the Legislature of Rockland County, New York relative to federal subsidies; to the Committee on Agriculture, Nutrition, and Forestry.

POM-520. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY RESOLUTION NO. 68

"Whereas, the New Jersey Legislature has often recognized the need to assure clean and adequate drinking water supplies for the people of New Jersey; and

"Whereas, the New Jersey Legislature, in accordance with the mandate provided by the people of New Jersey, continues to support initiatives that would provide open space and outdoor recreation and preserve ecosystems and wildlife habitat; and

"Whereas, Sterling Forest, a 17,500 acre site in the State of New York, is under consideration for acquisition and permanent preservation by the Palisades Interstate Park Commission; and

"Whereas, the Palisades Interstate Park Commission is a respected, competent bistate manager of parks and historic sites, has served in such capacity for almost a century, and has operated under a federally approved compact since 1937; and

"Whereas, nearly 100 percent of the land in Sterling Forest affects the watersheds that supply water to two million people in the State of New Jersey; and

"Whereas, the acquisition of Sterling Forest would protect the high quality and quantity of raw water supplies for the Monksville and Wanaque Reservoirs, which are managed and operated by the North Jersey District Water Supply Commission; and

"Whereas, this water supply is of major importance to the health and well-being of the people and the economy of the State of New Jersey; and

"Whereas, legislation currently pending in the Congress of the United States would authorize a federal appropriation of up to $35 million to the Palisades Interstate Park Commission for land acquisition at Sterling Forest, New York; Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. The Congress of the United States is memorialized to enact proposed federal legislation to acquire, and permanently maintain as open space, that area of the State of New York known as Sterling Forest.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the United States House of Representatives, every member of Congress elected from the State of New Jersey and from the State of New York, the Governor of the State of New Jersey, the Governor of the State of New York, the Palisades Interstate Park Commission, the North Jersey District Water Supply Commission, and the Passaic River Coalition.

STATEMENT

"This resolution would memorialize the Congress of the United States to enact proposed federal legislation to acquire, and permanently maintain as open space, that area of the State of New York known as Sterling Forest.

"Sterling Forest, a mostly privately owned tract of open space approximately 20,000 acres in size located in southern New York and northern New Jersey, is one of the last major undeveloped areas in the New York City metropolitan area. Two important northern New Jersey drinking water sources, the Monksville Reservoir and the Wanaque Reservoir, are fed by streams with headwaters in Sterling Forest, and these reservoirs supply drinking water to almost two million people. Sterling Forest is imminently threatened with large-scale development that is likely to have severe environmental consequences and threaten water supplies such as the Monksville and Wanaque reservoirs.

"The State of New Jersey has already taken action to acquire the approximately 2,000 acres of Sterling Forest lying within New Jersey, but the major portion of the forest, consisting of about 17,500 acres, lies within New York. Recent studies conducted by the States of New Jersey and New York and by the United States Forest Service all recognize the importance of protecting Sterling Forest. Legislation has been introduced in Congress by members of the New Jersey and New York congressional delegations that would authorize up to $35 million to be used to commence the process of acquiring Sterling Forest for preservation and management as a park by the Palisades Interstate Park Commission."

POM-521. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

"ASSEMBLY JOINT RESOLUTION NO. 16

"Whereas, the planned closure of Fort Ord will result in a loss of 18,000 military personnel and will detrimentally impact approximately 25,000 nonmilitary jobs in the local work force; and

"Whereas, a substantial number of the employees who will lose jobs as a result of the closure of Fort Ord will require training to reenter the local job market; and

"Whereas, the Trustees of the California State University are interested in converting a portion of Fort Ord to a university campus beginning in 1994; and

"Whereas, the Regents of the University of California plan to propose the conversion of a portion of Fort Ord to a research and policy center in the future in coordination with the establishment of a California State University campus; and

"Whereas, under existing state law, the trustees may enter into agreements with any agency of the federal government that result in grants, matching funds, or any other kind of financial aid for construction of housing and other educational facilities for students and staff of any campus of the university under the jurisdiction of the trustees; and

"Whereas, the trustees intend to establish a campus of 500 students at Fort Ord beginning in 1994 and to expand into a campus of 15,000 students by the next decade; and

"Whereas, the trustees will need a minimum of $100 million in federal assistance for the 1993-94 fiscal year in order to transform existing housing at Fort Ord into student housing; and

"Whereas, the conversion at the present time of a portion of Fort Ord to a California State University campus and the conversion in the future of an adjacent portion to a University of California research and policy center will be an environmentally sound collaborative conversion project and the model for an effective reuse plan; and

"Whereas, there is strong support for this collaborative conversion project in the community surrounding Fort Ord; Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorialize the President and Congress of the United States to enact legislation to appropriate $100,000,000 to convert a portion of Fort Ord to a California State University campus; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Education, to each Senator and Representative from California in the Congress of the United States, and to the Trustees of the California State University."

POM-522. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Appropriations.

"ASSEMBLY RESOLUTION NO. 52

"Whereas, the State of New Jersey is a maritime state with considerable economic and employment interests in marine transportation; and

"Whereas, the Report of the National Performance Review, referred to as "Reinventing the Government," has recommended that Federal funding for the United States Merchant Marine Academy be reduced by one-half and that the Academy charge tuition to cover expenses; and

"Whereas, such a recommendation, if implemented, would adversely affect the United States Merchant Marine Academy and in all probability result in the closing of this Federal Academy; and

"Whereas, as the single largest source of Reserve Navy officers and the undisputed leader in maritime education worldwide, the United States Merchant Marine Academy benefits America's maritime industry and serves the entire United States; and

"Whereas, the Merchant Marine is one of the few civilian industries that supports American military efforts by actually going to war, as was demonstrated during the Persian Gulf War; and

"Whereas, the unique relationship of the Merchant Marine going to war in America's times of need was the impetus for the establishing of the Academy; and

"Whereas, as the nature of American military involvements has evolved, so has the role and curriculum of the Academy, and the United States still requires a mechanism to produce trained Merchant Mariners to crew commercial ships and the Reserve Fleet called into service during crises; and

"Whereas, State maritime academies are beyond Federal control and are pursuing independent paths, including non-maritime programs, in an effort to meet diversified local educational needs; Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. This House hereby recognizes this State's and our nation's need for skilled Merchant Mariners, and memorializes the United States Congress to continue full Federal funding for the United States Merchant Marine Academy and to maintain the Academy as a tuition-free educational institution.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the Senate, the Speaker of the House of Representatives, and every member of Congress elected from this State.

"This resolution memorializes the United States Congress to continue full Federal funding for the United States Merchant Marine Academy and to maintain the Academy as a tuition-free educational institution."

POM-523. A resolution adopted by the Fort McClellan Anniston Army Depot Community Task Force relative to Anniston Army Depot Chemical Stockpile; to the Committee on Armed Services.

POM-524. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Armed Services.

"RESOLUTION NO. 258

"Whereas, it has been the long-standing goal of Guam's leadership to seek the return to Guam's people of federal land on Guam which is excess to federal needs, such return of excess federal land being important to Guam's people as a basis for rectifying the historic injustice resulting from the post-World War II federal landtakings; and

"Whereas, given the huge scale of federal land ownership on Guam and the resulting denial of this land for use in civilian development, the return of excess land is vital to the island's continued economic growth and prosperity, one of the clearest illustrations of these vital interests being the need to expand civilian airport operations at the site currently utilized for Naval Air Station Agaña, the expansion of Guam's civilian airport being key to the promotion of the island's tourism industry and other segments of Guam's economy; and

"Whereas, it was as a consequence of these economic and historic imperatives that in 1993 Guam sought the removal and consolidation of Naval air operations at NAS Agaña, to Andersen Air Force Base, which is only eight miles away in northern Guam; and

"Whereas, in representations to the Base Closure and Realignment Commission ("BRAC"), Guam demonstrated that both NAS Agaña and Andersen Air Force Base were underutilized air bases and that the consolidation of their respective air operations at a single base would be in the best interests of the U.S. government in terms of cost savings, it also being made clear in its submission to BRAC that Guam was seeking this consolidation principally because of the island's pressing need for the land currently utilized for NAS Agaña in order to expand the civilian airport; and

"Whereas, BRAC subsequently ruled in favor of Guam's position in this matter, ordering that the Naval air operations at NAS Agaña be moved to Andersen Air Force Base and that, with the exception of the housing areas, this facility was to be closed and the excess land disposed of in accordance with existing base closure procedures, the public comments on this issue by the BRAC commissioners clearly stating their intention that NAS Agaña be returned to the people of Guam; and

"Whereas, subsequent to the BRAC '93 ruling, the U.S. Navy announced its intention to relocate two of the existing squadrons at NAS Agaña to off-island military bases, and to transfer only one squadron to Andersen Air Force Base, although this BRAC '93 ruling clearly ordered the relocation of all existing squadrons to Andersen Air Force Base, and thus the Navy's announced plans to transfer squadrons off-island is in clear violation of the BRAC '93 ruling; and

"Whereas, proposed regulations for the future disposition of NAS Agaña after its closure, in accordance with the Pryor Amendment to the 1994 National Defense Authorization Act, may impose an impediment to the return of this land to the people of Guam by requiring the open-market sale of the NAS parcels without regard to the wishes of the local community; and

"Whereas, from the outset, Guam's stated goal with respect to NAS Agaña has never been to reduce military operations on Guam but actually to foster its consolidation in order to permit the return of this land to the people of Guam, principally for the needed expansion of the civilian airport, and this remains Guam's principal goal even in light of the continued global downsizing of the U.S. military forces and of other identified uses for the NAS Agaña parcels: Now, therefore, be it

"*Resolved*, That the Twenty-Second Guam Legislature does hereby on behalf of the people of Guam convey Guam's support of the BRAC '93 decision to consolidate Naval air operations at NAS Agaña with Andersen Air Force Base and to close the NAS Agaña facility, with the exception of housing areas, making this land available to the people of Guam as intended by the 1993 Base Closure and Realignment Commission; and be it further

"*Resolved*, That the Legislature does also convey Guam's opposition to any actions by the Defense Department that diverge from the BRAC '93 decision, including relocation off-island of NAS Agaña-based squadrons and the implementation of any regulations that may impose additional impediments to the return of NAS Agaña to the people of Guam; and be it further

"*Resolved*, That the Legislature hereby requests and memorializes the Congress of the United States to investigate the reasons and rationale for the proposed relocation of NAS Agaña squadrons rather than their consolidation at Andersen Air Force Base, Guam; and be it further

"*Resolved*, That the government of Guam and the agency heads having jurisdiction over the matter be and they are hereby requested and memorialized to work closely with the military commands in Guam in order to make it possible for the NAS Agaña squadrons to remain on Guam after the closure of NAS Agaña; and be it further

"*Resolved*, That Guam's Delegate to Congress, the Honorable Robert Underwood, be and he is hereby respectfully requested and memorialized to take whatever congressional action is necessary to permanently exempt Guam from the provisions of the Pryor Amendment; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Secretary of Defense; to the Chairman of the Base Closure and Realignment Commission; to Congressman Robert Underwood; and to the Governor of Guam."

POM-525. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Armed Services.

"HOUSE CONCURRENT RESOLUTION

"Whereas, the State of Hawaii and the Okinawa Prefecture of Japan are sister-states; and

"Whereas, like Hawaii, Okinawa is the site of several important U.S. military bases, which take up approximately eleven per cent of the land area of the Prefecture, and which are the source of occasional complaints regarding live-fire exercises and aircraft noise; and

"Whereas, during World War II the United States military occupied Okinawa and constructed a number of military bases on the then rural island to strengthen the security of the entire region during the aftermath of the war and the disarming of Japan; and

"Whereas, since that time, the economic and military support provided by the U.S. have resulted in the development of Okinawa from a rural society to a modern urban culture, a development which has made the extensive U.S. military bases in Okinawa increasingly out of place; and

"Whereas, eleven per cent of the total land area of Okinawa Prefecture is devoted to the use of the U.S. military, including live-fire exercises and aircraft operations with military facilities in Okinawa representing seventy-four per cent of all U.S. Forces facilities in Japan; and

"Whereas, the population of Okinawa has increased since World War II to the point

that Okinawa's population density is now almost 2,900 persons per square mile, or nearly twice the population density of the island of Oahu; and

"Whereas, like Hawaii, Okinawa's main industry is tourism, which is bringing in nearly 3 million tourists annually and which the Prefectural Government is trying to develop even further, but is hampered by the extensive presence and operations of the U.S. military on Okinawa; and

"Whereas, the extensive presence and operations of the U.S. military in Okinawa causes friction between the people of Okinawa and the various military components of the United States in Okinawa, and is interfering with the economic development of Okinawa; and

"Whereas, the following requests, which were presented to the Department of Defense by the Okinawan Prefectural Government in 1985 and 1988, have not jet been addressed:

"(1) The early return of Naha Port to the Naha city government for commercial use;

"(2) The release of Futenma Air Station, Ieshima Auxiliary Air Field, as well as the petroleum, oil, and lubricant pipeline between the cities of Urasoe and Ginowan;

"(3) The return of Awase Golf Course for joint use by the U.S. military and people of Okinawa;

"(4) Use of the access road on Kadena Air Force Base that directly links the Okinawan cities of Kadena and Okinawa City;

"(5) The termination of live-five exercises at Camp Schwab and Camp Hansen and the training on the water reservoir in the Northern Training Area; and

"(6) The reduction of aircraft noise at Kadena Air Base and Futenma Air Station; and

"Whereas, as a sister-state to Okinawa Prefecture, Hawaii seeks to promote better relations between the United States and Okinawa, Japan: Now, therefore, be it

"*Resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994, the Senate concurring*, That the President of the United States is requested to reevaluate the need for the current level of facilities and area occupied by U.S. military forces in the Prefecture of Okinawa, and consider the expeditious return of lands and facilities to the government and peoples of Okinawa Prefecture, Japan; and be it further

"*Resolved*. That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Secretary of Defense, the Commander-in-Chief of the U.S. Pacific Command, the Governor of Hawaii, the Governor of Okinawa Prefecture, the Consul-General of Japan in Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, the Mayors of Naha City, Okinawa City, Ginowan City, Urasoe City, and Kadena City in Okinawa Prefecture, the Office of International Relations in Hawaii, and appropriate Okinawan organizations in Hawaii."

POM-526. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"JOINT RESOLUTION

"Whereas, changes in national security interests have caused changes in the status of military facilities in the United States, to include closure, realignment and reduction in mission; and

"Whereas, future changes are likely to occur that will potentially affect military facilities in Maine; and

"Whereas, it is in the national security interest of the United States to preserve defense infrastructure during times of peace; and

"Whereas, the closure, realignment or reduction in the mission of military facilities may have a long-term impact on national security; and

"Whereas, military and civilian dual-use planning for military facilities is an effective method to preserve physical infrastructure and labor-force skills; and

"Whereas, the current base closure and realignment process discourages the State, communities, workers and businesses from working in partnership to develop military and civilian dual uses of military facilities; and

"Whereas, it is in our national interest to address disincentives or barriers to military and civilian dual use of military facilities, including disincentives caused by the base closure or realignment selection criteria; Now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully urge Maine's Congressional Delegation to convey the concerns contained in this memorial to the House Armed Services Committee and the Senate Armed Services Committee of the United States Congress, the President of the United States and the Secretary of Defense; and be it further

"*Resolved*, That Maine's Congressional Delegation advocate for changes to the base closure and realignment process to provide incentives for communities and military facilities to undertake military and civilian dual-use initiatives, including, but not limited to, positive military point value being assigned to military facilities that have undertaken dual-use planning to preserve physical infrastructure and work-force skills during times of peace; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-527. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Armed Services.

"A RESOLUTION

"Whereas, the New Hampshire general court has thoroughly considered the issues surrounding the transfer of the former Pease Air Force Base to the Pease Development Authority; and

"Whereas, the New Hampshire general court fully supports the transfer of the remaining land and buildings at the former Pease Air Force base to the Pease Development Authority at the earliest possible date; and

"Whereas, the New Hampshire general court finds that the transfer of the remaining land and buildings is vital for economic growth in the seacoast region as well as the entire state of New Hampshire, with the protection of the environment and the quality of life as predominant factors in planning for such economic growth; Now, therefore, be it

"*Resolved by the House of Representatives, the Senate concurring*, That the transfer of the remaining land and buildings be made at no cost to the state of New Hampshire; and

"That the federal government is strongly encouraged to provide significant funding for the redevelopment of the Pease International Tradeport; and

"That copies of this resolution be transmitted by the clerk of the New Hampshire house of representatives to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Chairman of the House Armed Services Committee and to each member of the New Hampshire congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Appropriations, with amendments:

H.R. 4554. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes (Rept. No. 103-290).

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 4506. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes (Rept. No. 103-291).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 572. A bill for the relief of Melissa Johnson.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 1346. A bill to redesignate the Federal building located on St. Croix, VI, as the "Almeric L. Christian Federal Building."

H.R. 2532. A bill to designate the Federal building and U.S. courthouse in Lubbock, TX, as the "George H. Mahon Federal Building and United States Courthouse."

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 3567. A bill to amend the John F. Kennedy Center Act to transfer operating responsibilities to the board of trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 3770. A bill to designate the U.S. courthouse located at 940 Front Street in San Diego, CA, and the Federal building attached to the courthouse as the "Edward J. Schwartz Courthouse and Federal Building."

H.R. 3840. A bill to designate the Federal building and U.S. courthouse located at 100 East Houston Street in Marshall, TX, as the "Sam B. Hall, Jr. Federal Building and United States Courthouse."

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 153. A joint resolution to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week."

S.J. Res. 172. A joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

S.J. Res. 178. A joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week."

S.J. Res. 187. A joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jerry J. Enomoto, of California, to be United States Marshal for the Eastern District of California for the term of four years.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 2230. A bill to amend the Indian Gaming Regulatory Act; to the Committee on Indian Affairs.

By Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. DECONCINI, and Mrs. HUTCHISON):

S. 2231. A bill to amend the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") to authorize appropriations for each of fiscal years 1994 through 2001 for the construction of wastewater treatment works to provide water pollution control in or near the United States-Mexico border area, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. DECONCINI) (by request):

S. 2232. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for each of fiscal years 1994 through 1998 for the construction of wastewater treatment works to serve United States colonias by providing water pollution control in the vicinity of the international boundary between the United States and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (by request):

S. 2233. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. PRYOR, Mr. BUMPERS, Mr. DURENBERGER, Mr. SASSER, Ms. MOSELEY-BRAUN, Mr. SIMON, and Mr. FEINGOLD):

S. 2234. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the commission established under that Act; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 2235. A bill to authorize the establishment of an Accredited Lenders Program for qualified State or local development companies under the Small Business Investment Act of 1958 and an Accredited Loan Packagers Pilot Program for loan packagers under the Small Business Act; to the Committee on Small Business.

By Mrs. HUTCHISON:

S. 2236. A bill to direct the Secretary of the Interior to enter into negotiations concerning the Nueces River project, Texas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM:

S. 2237. A bill to amend the Immigration and Nationality Act to strengthen the criminal offenses and penalties for the smuggling of aliens; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. CHAFEE, Mr. AKAKA, Mr. JEFFORDS, Mr. BINGAMAN, Mr. PACKWOOD, Mrs. BOXER, Mr. BRADLEY, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 2238. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S.J. Res. 203. A joint resolution designating July 12, 1994, as "Public Health Awareness Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. Res. 232. A resolution to congratulate the Houston Rockets for winning the 1994 National Basketball Association Championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 2230. A bill to amend the Indian Gaming Regulatory Act; to the Committee on Indian Affairs.

INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1994

Mr. INOUYE. Mr. President, I rise today, with my colleague and vice-chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN, to introduce a bill that is long awaited by many, and which represents the cumulation of hundreds of hours of negotiations over the past year between the leadership of State and tribal governments concerning a matter that has engendered more controversy than any other matter with which the committee has been charged in recent years.

This bill proposes to amend the provision of the Indian Gaming Regulatory Act of 1988, and is thus, accurately titled, "The Indian Gaming Regulatory Act Amendments Act of 1994."

Mr. President, we began the journey which leads us here today in 1985, when the committee undertook its first attempts to develop a regulatory framework for the conduct of gaming on Indian lands.

In May 1987, the Supreme Court issued its now famous ruling in the case of Cabazon Bank of Mission Indians versus California.

In that case, the Supreme Court held that civil regulatory gaming laws of the State of California, a Public Law 280 State, did not apply on Indian lands.

When the court's ruling in Cabazon was handed down, the pressure upon the Congress to enact legislation to regulate Indian gaming was intense.

By October 1988, we had a gaming bill signed into law, and almost from the very outset, the pressure to amend the act began to mount.

That pressure reached a feverish pitch in March last year when several Federal district court rulings prompted the Governors of several States to call upon the President to address what they viewed as a crisis.

Up until that time, I had continually expressed my reluctance to open up the act for amendment.

After all, although the gaming measure was enacted into law in 1988, it wasn't until April 1991 that the nominations to the Commission was completed, and the Commission could begin the work of promulgating regulations.

Final regulations were published in December 1992, so when the call came—3 months alter—to amend the act, my first reaction was that such action was premature.

I thought that we should give the parties time to operate under the act before we rushed to a judgment that the act wasn't working.

However, the States were not alone in their desire to see the act amended.

While the Federal courts were issuing rulings with regard to the scope of gaming that concerned the States, tribal leaders were equally forceful in their argument that the act must be amended to address the 10th and 11th amendment defenses that the States were successfully asserting to defeat Federal court jurisdiction.

Because of these rulings, tribes in several areas of the country found themselves thwarted in securing compacts to govern the conduct of class III gaming.

Nonetheless, as it is the charge of Members of this body to respond to the fervent requests of those who are elected to serve the people, in March of last year, JOHN MCCAIN and I called upon the Governors and the attorneys general of the 50 States, and the leadership of the Indian nations, to engage in discussions that might yield a consensus on how to proceed with amendments to the act.

In the hopes of initiating this process, we met with tribal government leaders on March 19, 1993, and we asked them to consider sitting down with the governors and the attorneys general.

That same day, representatives of the National Association of Attorneys

General, meeting here in Washington, advised us that they would welcome an opportunity for such dialog.

And later that same day, several governors, representing the National Governors Association, discussed the matter and they, too, informed us of their support for such a process.

Following our separate meetings with the tribal leaders, attorneys general, and the Governors in May of last year, a historic meeting of all of the principals was held here in the Senate, a little less than a year ago, on July 2, 1993.

The substantive concerns of all parties were openly expressed at that meeting, and the State and tribal government leaders agreed to proceed with further discussions.

Today, a substantial portion of the measure we introduce reflects the work of State and tribal representatives that has been produced over countless hours and days of negotiations that began in earnest the week of July 12, 1993.

Mr. President, some of my colleagues know that toward the end of the negotiations process, the parties began to feel that they had reached an impasse in their discussions.

However, Mr. President, when each side submitted their proposals to the committee a little over a month ago, we found those proposals to be very similar in many important respects.

However, I want to make clear our understanding that throughout the negotiations process, the parties maintained that there would be no agreement until there was agreement on all matters.

But when full agreement could not be reached, we felt that it was incumbent upon us to continue the work that the States and tribal governments had begun.

And so today, Mr. President, we submit this measure for the consideration of our colleagues in the Senate and in the House of Representatives, based upon our belief that it faithfully and straightforwardly attempts to address the principal concerns that were expressed by the State and tribal government leaders at the outset of this process.

For instance, when we had our first meeting with the governors of the several States representing the National Governors Association on May 18, it was made known to us that there were some States that did not wish to engage in the process that the Indian Gaming Regulatory Act established to regulate the conduct of class III gaming on Indian lands, and so we knew, almost at the outset, that we would have to formulate an alternative procedure that would involve the Federal Government, in lieu of the role a State would have assumed.

And, if the National Government was going to assume responsibility for the regulation of class III gaming, we knew that we would have to create a comprehensive regulatory capability in the Federal Government.

From the beginning, we learned that all parties shared a desire to reduce the amount of litigation that the act appeared to be spawning, and that we would need to provide a greater degree of certainty to the compacting parties in the tribal-State compact negotiation process—a matter which came to be known as the scope of gaming issue.

And so, Mr. President, the bill that Senator MCCAIN and I introduce today proposes the following:

The establishment of clear Federal standards for the conduct of class II and class III gaming on Indian lands;

An expanded Federal presence in the regulation of class III gaming on Indian lands;

A process that enables a State to exercise the option of entering into a tribal-State compact to oversee class III gaming on Indian lands, or of opting out of compact negotiations;

A means of which tribal and State compacting parties can seek assistance in clarifying the scope of gaming that is to be the subject of tribal State compact negotiations, thereby affording the parties the certainty they seek;

A process that enables a tribal government to enter into a compact with the Secretary of the Interior, when a State opts out of the compacting procedure;

A comprehensive licensing system to regulate the privilege of doing business in Indian country, similar to those systems employed in the States of Nevada and New Jersey;

A procedure for assuring the consideration of the interests of all parties when land is taken into trust for gaming purposes; and

A mechanism for assessing the costs of Federal regulation.

Nonetheless, Mr. President, we would be the first to acknowledge that we have not been able to address every matter that we brought to us for resolution.

In the final days before introduction of this measure, we received scores of phone calls from various representatives of the four Settlement Act States.

Conflicting positions on the part of Settlement Act States left us in the unenviable position of knowing that any language we put in the bill would in one way or another be offensive to one of those States.

Some want the bill to be silent on Settlement Acts—others want specific provisions on Settlement Acts.

One State has said that if any one of the Settlement Acts is addressed, then they all must be addressed.

It has become clear that we cannot satisfy one State without doing so at the expense of the desires of another State.

In addition, we have heard from the tribal governments in those States and have been advised that compact negotiations hold the potential for resolving the need for amendments to the act.

Accordingly, we have opted not to take any action at this time of introduction of this measure with regard to the Settlement Acts, in the hope that the Settlement Act States can come to some agreement on how they wish us to proceed.

Another unresolved area which we have not attempted to address at this juncture is the concern that has been expressed by at least one member of the Committee on Indian Affairs concerning the accountability of tribal governments to their citizens in the arena of gaming.

Respecting the sovereign nature of Indian tribal governments, it is my hope that they might come forward with a proposal that responds to this concern, rather than have a federally fashioned solution.

It is thus, within this context, that we ask our colleagues to view this measure not as a panacea to all problems, but as a foundation upon which additional solutions might be built.

Such is the nature of a highly controversial matter that gaming has become in this country.

The proliferation of State lotteries and commercial gaming in States across the Nation define the trend, of which Indian gaming represents but a small percentage.

Indian gaming is not the engine that will drive the national debate as to whether gaming is an acceptable means of funding essential Government functions.

What we do know is that Indian gaming has brought to historically impoverished Indian communities across the country, something that the Federal Government has never been able to provide in a meaningful way—

Job opportunities in communities where unemployment ranges from a low of 37 percent to a high of 95 percent;

Clinics and schools and day-care facilities, and long-term care for those in need;

Roads and housing and safe water and sanitation systems;

Fire and police protection;

And perhaps, most important of all, hope to those who have long ago given up hope that they could share in the American dream—that they could end the cycle of despair and devastation that has been wrought on their communities.

Mr. President, I am not one who supports gaming.

But I count myself amongst those who acknowledge our shameful treatment of America's Native people, and who recognize their rights as sovereigns, to employ the same tools of economic development that so many States have adopted.

The Committee on Indian Affairs will hold hearings on the measure on July 19 and July 25. Thereafter, we hope to proceed to consideration of the measure for report to the full Senate before the August recess if possible.

Mr. President, I urge my colleagues to give this measure their most careful consideration, as we once again, begin this debate.

Mr. MCCAIN. Mr. President, I am pleased to join today with the chairman of the Committee on Indian Affairs, Senator INOUYE, as a sponsor of the Indian Gaming Regulatory Act Amendments Act of 1994. I want to associate myself with Senator INOUYE's remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUYE for his outstanding leadership over the years on this complex issue.

The bill we are introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for a direct Federal presence in the regulation and licensing of class II and class III gaming as well as all of the industries associated with such gaming. This will be accomplished through the establishment of an expanded Federal Indian Gaming Commission which will be funded through assessments on Indian gaming and fees imposed on license applicants. The bill also provides a new process for the negotiation of class III compacts which will allow the States to opt out of the negotiations if they so choose. Consistent with the 1987 decision of the U.S. Supreme Court in the case of Cabazon Band of Mission Indians versus California, the bill contains new provisions intended to reduce disagreements between tribes and States over the scope of gaming and to provide for prompt resolution of any disputes which may arise. Provisions of the Bank Secrecy Act would be applied to Indian gaming activities to the same extent that the act is applied to any other gaming activity.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about $4 billion per year and net revenues are estimated at $750 million. There are about 160 class II bingo and card games in operation and there are now over 100 tribal/State compacts governing class III in 20 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprise about 36 percent of all gaming and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the single largest source of economic activity for Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas and minerals are about $230 million and Indian forestry resources revenues are estimated at $61 million. The estimated annual earnings on gaming now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations gaming has meant the end of unemployment rates of 90 or 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social welfare, education and health needs of the Indian tribes. Schools, health facilities, roads and other vital infrastructure is being built by the Indian tribes with the proceeds of Indian gaming.

In the years before the enactment of the Indian Gaming Regulatory Act and in the years since its enactment we have heard concerns about the possibility for organized criminal elements to penetrate Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming. Some of our colleagues have suggested that no one would now if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact that the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the Federal Government in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to generate increased revenues. The legislation we are introducing today includes strict minimum Federal standards which are patterned after the laws of Nevada and New Jersey—the two States with the most experience in regulating gaming and confronting gaming related criminal activity. Several of the larger Indian gaming operations have also looked to Nevada and New Jersey as models for their own regulatory systems.

The bill provides for a continued regulatory role for Indian tribes and States when the Federal standards are met or exceeded by State or tribal laws. The National Indian Gaming Commission will continuously monitor the regulation of all class II and class III gaming and will directly regulate these activities when the minimum Federal standards are being enforced by the Indian tribe or the tribe and State.

As most of our colleagues know, one of the areas which has caused the greatest controversy under the current law relates to what has come to be known as the scope of gaming. A related issue is the refusal of some States to enter into negotiations for a class III compact and their assertion of sovereign immunity under the 11th amendment to the Constitution when an Indian tribe seeks judicial relief as provided by the act. The bill we are introducing incorporates the explicit standards of the Cabazon decision to guide all parties in determining the permissible gaming activities under the laws of any State. State laws will continue to govern this issue. We have not pre-empted the gaming laws of any State.

In an effort to assist the application of the Cabazon criteria, we have included definitions for gambling devices, lottery games, parimutuel wagering and other games of chance and we have provided that each of these are distinct from each other. These provisions should help to resolve concerns which have come to be characterized by the phrase "any mans all." In addition, the scope of gaming provisions of the bill would establish new procedures for the resolution of disputes over which activities are subject to compact negotiations.

With regard to the issue of the refusal of some States to negotiate and the 11th amendment, the bill would establish a new process for compact negotiation which allows a State to choose to opt out of the negotiations. In such a circumstance, the Secretary of the Interior would negotiate the compact. If a State chooses to enter into negotiations, then that choice is voluntary and has the effect of waiving the State's sovereign immunity under the 11th amendment. In either case, the bill would establish firm timelines for the completion of negotiations and new procedures for the resolution of any disputes.

Mr. President, as Senator INOUYE stated I am sure that we will find many things to change in this legislation as it moves through the Senate. However,

I believe that it provides a good foundation for our further consideration of this important issue. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Gaming Regulatory Act Amendments Act of 1994."

SEC. 2. AMENDMENTS.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended as follows:

(1) Section 2 of the Act (25 U.S.C. 2701) is amended to read as follows:

"SEC. 2. FINDINGS REGARDING INDIAN GAMING.

"The Congress finds that—

"(1) Indian tribal governments are engaged in the operation of gaming activities on Indian lands as a means of generating tribal governmental revenue and are licensing such activities;

"(2) Clear federal standards and regulations for the conduct of gaming on Indian lands will assist tribal governments in assuring the integrity of gaming activities conducted on Indian lands;

"(3) A principal goal of the United States' federal-Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government;

"(4) While Indian tribal governments have the right to regulate the operation of gaming activities on Indian lands if such gaming activities are not specifically prohibited by federal law and are conducted within a State which does not prohibit such activities as a matter of criminal law and public policy, the Congress has the authority to regulate the privilege of doing business in Indian country;

"(5) Systems for the regulation of gaming activities on Indian lands should conform to federally-established minimum regulatory requirements;

"(6) The operation of gaming activities on Indian lands has had a significant impact on commerce with foreign nations, among the several States and with the Indian tribes; and

"(7) The United States Constitution vests the Congress with the powers to '. . . regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes. . . ' and this Act is enacted in the exercise of those powers.".

(2) Section 3 of the Act (25 U.S.C. 2702) is amended as follows:

"SEC. 3. DECLARATION OF POLICY REGARDING INDIAN GAMING.

"The purpose of this Act is—

"(1) to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

"(2) to provide a statutory basis for the regulation of gaming activities on Indian lands by an Indian tribal government adequate to shield such activities from organized crime and other corrupting influences, to ensure that an Indian tribal government is the primary beneficiary of the operation of gaming activities, and to ensure that gaming is conducted fairly and honestly by both the operator and players; and

"(3) to declare that the establishment of independent federal regulatory authority for the conduct of gaming activities on Indian lands, the establishment of federal standards for the account of gaming activities on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to address congressional concerns regarding the conduct of gaming activities on Indian lands and to protect such gaming as a means of generating tribal revenue.".

(3) Section 4 of the Act (25 U.S.C. 2703) is amended as follows:

"SEC. 4. DEFINITIONS.

"For purposes of this Act—

"(1) The term 'Attorney General' means the Attorney General of the United States.

"(2) The term 'banking game' means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.

"(3) The term 'Chairman' means the Chairman of the National Indian Gaming Commission.

"(4) The term 'Class I gaming' means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

"(5)(A) The term 'Class II gaming' means—

"(i) the game of chance commonly known as bingo or lotto (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

"(I) which is played for prizes, including monetary prizes,

"(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

"(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including, if played in the same location, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, and

"(ii) card games that—

"(I) are explicitly authorized by the laws of the State, or

"(II) are not prohibited as a matter of State criminal law and are legally played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

"(B) The term 'Class II games' does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21) or

(ii) gambling devices as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171(a)(2) or (3)), or slot machines of any kind.

"(6) The term 'Class III gaming' means all forms of gaming that are not class I gaming or class II gaming.

"(7) The term 'Commission' means the National Indian Gaming Commission established pursuant to section 5 of this Act.

"(8) The term "compact" means the regulatory regime for operating class III gaming entered into either by a tribe and the Secretary, or a tribe and a State, published pursuant to section 10 of this Act, and includes procedures in lieu of a compact published by the Secretary prior to the effective date of the Indian Gaming Regulatory Act Amendments Act of 1994.

"(9) the term 'electronic, computer, or other technologic aid" means a device, such as a computer, telephone, cable, television, satellite, or bingo blower, which, when used—

"(A) is not a fame of chance, a gambling device, or a slot machine;

"(B) merely assists a player or the playing of a game; and

"(C) is operated according to applicable Federal communications law.

"(10) The term 'electronic or electromechanical facsimile' means any gambling device as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171 (a)(2) or (3)).

"(11) The term 'gambling device' means any gambling device as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171(a)(2) or (3)), including any electronic or electromechanical facsimile.

"(12) The term 'gaming activity' means a game of chance, whether electronic, electromechanical or otherwise, that is distinguished from another game of chance by its principal characteristics.

"(13) The term 'gaming-related contract' means any agreement under which an Indian tribe or its agent procures gaming materials, supplies, equipment or services which are used in the conduct of a class II or class III gaming activity, or financing contracts or agreements for any facility in which a gaming activity is to be conducted.

"(14) The term 'gaming-related contractor' means any person, corporation, partnership or other entity entering into a gaming-related contract with an Indian tribe or its agent, including any person, corporation, partnership or other entity among which there is common ownership.

"(15) The term 'gaming service industry' means any form of enterprise which provides goods or services which are used in conjunction with any class II of class III gaming activity, including, without limitation, travel services, security, gaming schools, manufacturers, distributors and servicers of gaming devices, garbage haulers, linen suppliers, maintenance and cleaning services, food and non-alcohol beverage purveyors and construction companies.

"(16) The term 'key employee' means any natural person employed in a gaming operation licensed pursuant to this Act in a supervisory capacity or empowered to make any discretionary decision with regard to the gaming operation, including, without limitation, pit bosses, shift bosses, credit executives, cashier supervisors, gaming facility managers and assistant managers, and managers or supervisors of security employees.

"(17) The term 'lottery game' means a scheme for the distribution of a prize by chance where multiple players pay for the opportunity to win the prize and select a chance either (A) from a finite number of chances where the winning combinations are predetermined but concealed prior to purchase and the selection of each choice depletes the number of chances remaining, or (B) where the winner or winners are determined by random selection after all entries are completed, including where a time limit for entry has passed, when a predetermined number of players have entered, or when a predetermined sum of money has been wagered.

"(18) The term 'net revenues' means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

"(19) The term 'notify' means the act of sending a notice in writing, delivered by certified mail, with receipt requested, to the

chief executive officer, and the chief legal officer of a State or of an Indian tribe; and, for purposes of that Act, the date of notification shall be the actual date of receipt as evidenced by the return receipt.

"(20) The term "other games of chance" means any class III gaming activity which is not a gambling device, a lottery game, a banking game, or parimutuel wagering.

"(21) The term "parimutuel wagering" means a system of betting on contests involving human or animals in which bets are pooled and the winners are paid according to odds determined by the volume of betting on the entries, with or without a deduction for the operator.

"(22) The term "person" means an Indian tribe, individual, firm, corporation, association, partnership, trust, consortium, joint venture, or commercial entity.

"(23) The term "principal characteristics" means the pace of play, complexity or type of choices for the player, appearance of the activity, nature of the interaction with the operator, other players or machine, and other attributes of a gaming activity which would be perceived by and be significant to a player familiar with games of chance.

"(24) The term 'prohibited as a matter of State criminal law' means an activity in a State which, under the law of that State, is subject to prosecution and a criminal sanction.

"(25) The term 'Secretary' means the Secretary of the Interior.

"(26) The term "slot machine" means any player activated gaming device involving mechanical, electronic, electromechanical, or computer technology, or any combination thereof which—

(A) accepts anything of monetary value, whether coin, currency or tokens, to initiate the operation of the gaming device;

(B) has as an integral part, a system of generating infinite random numbers or combinations thereof, which determine the successful operation of the device;

(C) rewards the successful operation of the device with anything of monetary value; and

(D) rewards the successful operation of the device solely on the basis of chance.

"(27) The term 'social gaming activity' means a gaming activity which is not—

"(A) a commercial, governmental, charitable or systematic gaming enterprise;

"(B) where no person, organization or entity other than the participants obtains or receives money or something of more than minimal value from the gaming activity, whether by taking a percentage of wagers or winnings or by banking the game;

"(C) where no person, organization or entity charges admission or other fees to participate in the game; and

"(D) where such gaming activity is not conducted in places ordinarily and regularly used for gaming and is only played for nominal value.

(4) Section 5 of the Act (25 U.S.C. 2704) is amended to read as follows:

"SEC. 5. ESTABLISHMENT OF THE NATIONAL INDIAN GAMING COMMISSION.

"(a) There is established as an independent agency of the Untied States a Commission to be known as the National Indian Gaming Commission.

"(b)(1) COMPOSITION OF THE COMMISSION.—The Commission shall be composed of five full-time members who shall be appointed by the President with the advice and consent of the Senate.

"(2) Each member of the Commission shall be a citizen of the United States.

"(3) Each member of the Commission shall devote his entire time and attention to the business of the Commission and shall not—

"(A) pursue any other business or occupation or hold any other office;

"(B) be actively engaged in or have any direct pecuniary interest in gaming activities;

"(C) have any pecuniary interest in any business or organization holding a gaming license under this Act or doing business with any person or organization licensed under this Act;

"(D) have been convicted of a felony or gaming offense; or

"(E) have any financial interest in, or management responsibility for, any gaming-related contract or any other contract approved pursuant to this Act.

"(4) Not more than three of such members of the Commission shall be members of the same political party and in making appointments, members of different political parties shall be appointed alternatively as nearly as may be practicable.

"(5) At least two members of the Commission shall be enrolled members of any Indian tribe.

"(6) The Commission shall be composed of the most qualified persons available, provided that—

"(A) one member of the Commission must be a certified public accountant with at least 5 years of progressively responsible experience in accounting and auditing, and comprehensive knowledge of the principles and practices of corporate finance; and

"(B) one member of the Commission must be selected with special reference to his training and experience in the fields of investigation or law enforcement.

"(7) The Attorney General of the United States shall conduct a background investigation on any person considered for appointment to the Commission, with particular regard to the nominee's financial stability, integrity, and responsibility and his reputation for good character, honesty, and integrity.

"(c) TERMS OF OFFICE.—(1) Each member of the Commission shall hold office for a term of five years.

"(2) Initial appointments to the Commission shall be for terms as follows—

"(A) the Chairman for 5 years;

"(B) one member for 4 years;

"(C) one member of 3 years;

"(D) and the remaining members for terms of 2 years each.

"(3) After the initial appointments, all members shall be appointed for terms of 5 years; provided that no member shall serve more than two terms of 5 years each.

"(d) VACANCIES.—(1) The persons appointed by the President to serve as Chairman and members of the Commission shall serve in such capacities throughout their entire terms and until their successors shall have been duly appointed and qualified, unless the Chairman or a member of the Commission has been removed for cause under paragraph (2) of this subsection.

"(2) The Chairman or any member of the Commission may only be removed from office before the expiration of their term of office by the President for neglect of duty, or malfeasance in office, or for other good cause shown.

"(3) Appointment to fill vacancies on the Commission shall be for the unexpired term of the member to be replaced.

"(e) QUORUM.—Three members of the Commission, at least one of which is the Chairman or Vice-Chairman, shall constitute a quorum.

"(f) CHAIRMAN.—The President shall designate one of the five members of the Commission to serve as Chairman of the Commission.

"(g) VICE CHAIRMAN.—The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman, The Vice Chairman shall serve as Chairman of the Commission in the Chairman's absence and shall exercise such other powers as may be delegated by the Chairman.

(h) MEETINGS.—(1) The Commission shall meet at the call of the Chairman or a majority of its members.

"(2) A majority of the members of the Commission shall determine any action of the Commission.

"(i) COMPENSATION.—(1) The Chairman of the Commission shall be paid at a rate equal to that of level III of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) The members of the Commission shall each be paid at a rate equal to that of level IV of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties."

(5) Section 6 of the Act (25 U.S.C. 2705) is amended to read as follows—

"SEC. 6. POWERS OF THE CHAIRMAN.

"(a) The Chairman shall serve as the chief executive officer of the Commission.

"(b) Subject to the provisions of subsection (c) of this section, the Chairman shall—

"(1) employ and supervise such personnel as is deemed necessary to carry out the functions of the Commission, and assign work among such personel;

"(2) use and expend federal funds and funds collected pursuant to section 15 of this Act.

"(3) contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of the Commission's responsibilities under this Act;

"(c) In carrying out any of the functions pursuant to this section, the Chairman shall be governed by the general policies of the Commission and by such regulatory decisions, findings and determinations as the Commission may by law be authorized to make."

(6) Section 7 of the Act (25 U.S.C. 2706 is amended to read as follows—

"SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.

"(A) GENERAL POWERS.—The Commission shall have the power to—

"(1) approve the annual budget of the Commission;

"(2) adopt regulations to carry out the provisions of this Act;

"(3) exercise the law enforcement powers necessary to fulfill the purposes of this Act and the regulations promulgated thereunder;

"(4) establish a rate of fees and assessments as provided in section 15 of this Act;

"(5) conduct investigations;

"(6) issue a temporary order closing the operation of gaming activities;

"(7) after a hearing, make permanent a temporary order closing the operation of gaming activities as provided in section 13 of this Act;

"(8) grant, deny, limit, condition, restrict, revoke or suspend any license issued pursuant to this Act or fine any person pursuant to this Act for any cause deemed reasonable by the Commission;

"(9) inspect and examine all premises located on Indian lands on which class II or class III gaming is conducted;

"(10) demand access to inspect, examine, photocopy, and audit all papers, books, and

records of Class II and Class III gaming activities conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

"(11) use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

"(12) procure supplies, services, and property by contract in accordance with applicable federal laws and regulations;

"(13) enter into contracts with federal, state, tribal, and private entities for activities necessary to the discharge of the duties of the Commission;

"(14) serve or cause to be served its process or notices in a manner provided for by the Commission or in a manner provided for the service of process and notice in civil actions in accordance with the rules of a tribal, state or federal court;

"(15) propound written interrogatories and appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, and require testimony under oath;

"(16) conduct all hearings pertaining to civil violations of this Act or regulations promulgated thereunder;

"(17) collect all fees and assessments imposed by this Act and the regulations promulgated thereunder;

"(18) assess penalties for the violation of provisions of this Act and the regulations promulgated thereunder;

"(19) provide training and technical assistance to Indian tribal governments in all aspects of the conduct and regulation of gaming activities; and

"(20)(A) In addition to its existing authority, the Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter;

"(B) Nothing in this section shall be deemed to authorize the delegation of the function of the rule-making as defined in subchapter II of chapter 5 of title 5 of the United States Code, with reference to general rules as distinguished from rules of particular applicability, or the making of any rule;

"(C) with respect to the delegation of any of its functions, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee, upon its own initiative.

"(D) the vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review;

"(E) if the right to exercise such review is declined or, if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual member of the Commission, administrative law judge, or employee, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission."

"(b) REGULATORY AUTHORITY.—The Commission shall—

"(1) approve all gaming-related contracts;

"(2) establish minimum regulatory requirements for background investigations, licensing of persons and licensing of gaming operations associated with the conduct of class II and class III gaming on Indian lands by tribal governments;

"(3) establish minimum internal control requirements for the operation of class II and class III gaming activities on Indian lands, including but not limited to—

"(A) surveillance and security personnel and systems capable of monitoring all gaming activities including the conduct of games, cashiers' cages, change booths, count rooms, movements of cash and chips, entrances and exists to gaming facilities and other critical areas of any gaming facility;

"(B) the rules for the play of games and controls related to such rules;

"(C) credit and debit collection controls;

"(D) controls over gambling devices and equipment; and

"(E) accounting and auditing;

"(4) inspect and examine all premises located on Indian lands on which class II or class III gaming is conducted;

"(5)(A) monitor and regulate the background investigations conducted by tribal governments of persons involved in a class II gaming operation, including but not limited to key employees of any licensed gaming operation, gaming-related contractors, and any persons who have a material involvement, either directly or indirectly, with a licensed gaming operation, to assure that background investigations are consistent with the minimum regulatory requirements for background investigations established by the Commission;

"(B) monitor and regulate the licensing by tribal governments of persons involved in a class II gaming operation, including but not limited to key employees of any licensed gaming operation, gaming-related contractors, gaming service industries, and any persons having a material involvement, either directly or indirectly, with a licensed gaming operation, gaming related contractor or gaming service industry, to assure that such licensing is consistent with the minimum regulatory requirements for the licensing of persons established by the Commission;

"(C) monitor and regulate the licensing by tribal governments of class II gaming operations to assure that such licensing is consistent with the minimum regulatory requirements for the licensing of gaming operations established by the Commission;

"(D) except the where a tribal government's system for the conduct of background investigation, the licensing of persons or the licensing of gaming operations fails to meet the minimum regulatory background investigation or licensing requirements established by the Commission, the Commission's authority to conduct background investigations, to license and directly regulate Class II gaming activities conducted on Indian lands shall be exclusive until such time as the Commission determines that the regulation of Class II gaming activities on Indian lands by a tribal government meets the established minimum regulatory requirements;

"(6)(A) monitor and regulate a tribal gaming operation and the tribal government's system for internal controls to assure that such system is consistent with the minimum regulatory requirements for internal controls established by the Commission;

"(B) except that where a tribal government's system for internal controls fails to meet the minimum internal control requirements established by the Commission, the Commission's authority to directly establish and regulate internal control systems associated with Class II gaming activities shall be exclusive until such time as the Commission determines that the regulation of Class II gaming activities on Indian lands by a tribal government meets the minimum internal control requirements established by the Commission;

"(7) monitor and regulate Class III gaming activities conducted on Indian lands, and have the exclusive authority to—

"(A) license

"(i) Class III gaming operations conducted on Indian lands;

"(ii) key employees of all licensed Class III gaming operations conducted on Indian lands;

"(iii) any persons having a material involvement, either directly or indirectly, with a licensed Class III gaming operation conducted on Indian lands;

"(iv) gaming-related contractors, including but not limited to any vendor or supplier of gaming equipment or gambling devices associated with a licensed class III gaming operation;

"(v) gaming service industries pursuant to which an Indian tribal government or its agent enters into an agreement in excess of $10,000 for the procurement of materials, supplies, equipment or services which are used in association with a licensed Class III gaming operation, or financing contracts or agreements with a gaming service industry in excess of $10,000 associated with any facility which is used in association with a licensed Class III gaming activity; and

"(vi) any other person or company or other entity for which the Commission may require licensure;

"(B) conduct background investigations on—

"(i) key employees of any licensed class III gaming operation conducted on Indian lands;

"(ii) principal investors having a material involvement, either directly or indirectly, with a licensed class III gaming operation;

"(iii) principal gaming-related contractors; and

"(iv) any other person or company or other entity for which the Commission may require a background investigation;

"(C) The Commission shall make a determination as to principal investors and principal gaming-related contractors;

"(8)(A) in the context of a compact entered into by a tribal government with a state government, monitor and regulate the conduct of background investigations of (i) non-principal investors having a material involvement, either directly or indirectly, with a licensed Class III gaming operation; (ii) non-principal gaming-related contractors, including but not limited to vendors or suppliers of gaming equipment or gambling devices associated with a licensed Class II gaming operation, and (iii) non-principal key employees of any licensed Class III gaming operation; either in conjunction with Indian tribal governments or state governments, or both;

"(B) except that where the regulatory system of a tribal government or a state government, or both, for the conduct of background investigations fails to meet minimum regulatory requirements established by the Commission for the conduct of background investigations, the Commission shall have the exclusive authority to conduct background investigations until such time as the regulatory system of a tribal government or a state government, or both, meet the minimum regulatory requirements established by the Commission for the conduct of background investigations;

"(9)(A) in the context of a compact entered into by a tribal government with the Secretary of the Interior, monitor and regulate

the conduct of background investigations of (i) non-principal investors having a material involvement, either directly or indirectly, with a licensed Class III gaming operation; (ii) non-principal gaming-related contractors, including but not limited to vendors or suppliers of gaming equipment or gambling devices associated with a licensed Class III gaming operation, and (iii) non-principal key employees of any licensed Class III gaming operation; in conjunction with an Indian tribal government to assure that the tribal government's system for the conduct of background investigations is consistent with the minimum regulatory requirements for backgrounds investigations established by the Commission;

"(B) except that where the regulatory system of a tribal government for the conduct of background investigations fails to meet minimum regulatory requirements established by the Commission for the conduct of background investigations, the Commission shall have the exclusive authority to conduct background investigations until such time as the regulatory system of a tribal government meets the minimum regulatory requirements established by the Commission for the conduct of background investigations;

"(10)(A) monitor and regulate the internal control systems associated with a licensed class III gaming operation to assure that such systems are consistent with the minimum regulatory requirements for internal controls established by the Commission;

"(B) except that where the internal control systems fail to meet the minimum internal control requirements established by the Commission, the Commission's authority to directly establish and regulate internal control systems associated with a licensed class III gaming operation shall be exclusive until such time as the Commission determines that the internal control systems meet the minimum internal control requirements established by the Commission;

"(c) LICENSING.—A license approved by the Commission shall be required of—

"(A) any person having a material involvement, either directly or indirectly, with a licensed gaming operation;

"(B) any person having a material involvement, either directly or indirectly, with a gaming-related contract;

"(C) any gaming-related contractor, including but not limited to any vendor or supplier of gaming equipment or gambling devices associated with a licensed gaming operation;

"(D) any gaming service industry for which the Commission may require licensure;

"(E) any gaming operation, including the management of any gaming operation; and

"(F) any other person or company or other entity for which the Commission may require licensure;

"(2)(A) The Commission may issue a statement of compliance to an applicant for any license or for qualification status under this Act at any time the Commission is satisfied that one or more particular eligibility criteria have been satisfied by an applicant.

"(B) Such statement shall specify the eligibility criterion satisfied, the date of such satisfaction and a reservation to the Commission to revoke the statement of compliance at any time based upon a change of circumstances affecting such compliance.

"(3)(A) No gaming operation shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with this Act.

"(B)(i) Prior to the operation of any gaming facility or activity, every agreement for the management of the gaming operation shall be in writing and filed with the Commission pursuant to section 11 of this Act.

"(ii) No such agreement shall be effective unless expressly approved by the Commission.

"(iii) The Commission may require that any such agreement include within its terms any provisions reasonably necessary to best accomplish the policies of this Act.

"(iv) The Commission may determine that any applicant who does not have the ability to exercise any significant control over a licensed gaming operation shall not be eligible to hold or required to hold a license.

"(4)(A) The Commission shall deny a license for the management of a gaming operation to any applicant who is disqualified on the basis of any of the following criteria—

"(i) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this Act;

"(ii) Failure of the applicant to provide information, documentation and assurances required by the Act or requested by the Commission, or failure of the applicant to reveal any fact material to qualification, or the supplying information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

"(iii) The conviction of the applicant, or of any person required to be qualified under this Act as a condition of a license for the management of a gaming operation, of any offense in any jurisdiction which is deemed by the Commission to disqualify the applicant; provided that—

"(B) the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the 10-year period immediately preceding application for licensure and which the applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement;

"(5)(A) Upon the filing of an application for a license for the management of a gaming operation and such supplemental information as the Commission may require, the Commission shall conduct an investigation into the qualifications of the applicant, and the Commission shall conduct a hearing thereon concerning the qualifications of the applicant in accordance with its regulations;

"(B) After such investigation and hearing, the Commission may either deny the application or grant a gaming operation license to an applicant whom it determines to be qualified to hold such license.

"(C)(i) The Commission shall have the authority to deny any application pursuant to the provisions of this Act;

"(ii) When an application is denied, the Commission shall prepare and file an order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of facts.

"(iii) After an application is submitted to the Commission, final action of the Commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the Commission;

"(D) If satisfied that an applicant is qualified to receive a license for the management of a gaming operation, and upon tender of all license fees and assessments as required by this Act and regulations of the Commission, and such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act or regulations promulgated thereunder, the Commission shall issue a license for the management of a gaming operation for the term of 1 year;

"(E)(i) The Commission shall fix the amount of the bond or bonds to be required under this section in such amounts as it may deem appropriate, by rules of uniform application;

"(ii) The bonds so furnished may be applied by the Commission to the payment of any unpaid liability of the licensee under this Act;

"(iii) The bond shall be furnished in cash or negotiable securities, by a surety bond guaranteed by a satisfactory guarantor, or by an irrevocable letter of credit issued by a banking institution of any state acceptable to the Commission;

"(iv) If furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Commission, but any income shall inure to the benefit of the licensee;

"(6)(A)(i) Subject to the power of the Commission to deny, revoke, or suspend licenses, any license for the management of a gaming operation in force shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees and assessments as required by law and the regulations of the Commission;

"(ii) The license period for a renewed license for the management of a gaming operation shall be up to one year for each of the first two renewal periods succeeding the initial issuance of a license for the management of a gaming operation pursuant to subsection (5) of this section;

"(iii) Thereafter, a license for the management of a gaming operation may be renewed for a period of up to two years, but the Commission may reopen licensing hearings at any time;

"(B)(i) Notwithstanding the other provisions of this subsection, the Commission may, for the purpose of facilitating its administration of this Act, renew the license for the management of a gaming operation of the holders of licenses initially opening after the date of enactment of this Act for a period of one year, provided the renewal period for those particular licenses for the management of a gaming operation may not be adjusted more than once pursuant to this provision;

"(ii) The Commission shall act upon any such application prior to the date of expiration of the current license;

"(C) Application for renewal shall be filed with the Commission no later than 90 days prior to the expiration of the current license, and all license fees and assessments as required by law shall be paid to the Commission on or before the date of expiration of the current license;

"(D) Upon renewal of any license the Commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each license for the management of a gaming operation;

"(7) Subject to the power of the Commission to deny, revoke or suspend any license, any license other than a license for the management of a gaming operation may be renewed upon proper application for renewal and the payment of fees in accordance with the rules of the Commission, but in no event later than the date of expiration of the current license.

"(d) HEARINGS.—(1) The Commission shall establish procedures for the conduct of hearings associated with—

"(A) licensing of gaming operations and the management of a gaming operation, including the denial, limiting, conditioning, restriction, revocation, or suspension of any such license;

"(B) licensing of—

"(i) key employees of gaming operations;

"(ii) any persons having a material involvement, either directly or indirectly, with a licensed gaming operation;

"(iii) gaming-related contractors, including but not limited to any vendor or supplier of gaming equipment or gambling devices associated with a licensed gaming operation;

"(iv) gaming service industries pursuant to which an Indian tribal government or its agent enters into an agreement in excess of $10,000 for the procurement of materials, supplies, equipment or services which are used in association with a gaming operation, or financing contracts or agreements with a gaming service industry in excess of $10,000 associated with any facility which is used in association with a gaming operation; and

"(v) any other person or company or other entity for which the Commission may require licensure;

including the denial, limiting, conditioning, restriction, revocation, or suspension of any such license;

"(2) Following a hearing for any of the purposes authorized in this section, the Commission shall render its decision and issue an order, and serve such decision and order upon the affected parties;

"(3)(A) The Commission may, upon motion made within 10 days after the service of a decision and order, order a rehearing before the Commission upon such terms and conditions as it may deem just and proper when the Commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy or factual matters advanced by the moving party or raised by the Commission on its own motion;

"(B) Following a rehearing, the Commission shall render its decision and issue an order, and serve such decision and order upon the affected parties;

"(C) The Commission's decision and order under subsection (2) of this section when no motion for a rehearing is made, or the Commission's decision and order upon rehearing shall constitute final agency action for purposes of judicial review under the Administrative Procedure Act;

"(4) The District of Columbia Circuit Court of Appeals shall have jurisdiction to review the Commission's licensing decisions and orders.

"(e) COMMISSION STAFFING.—(1) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule under section 5382 of title 5 of the United States Code.

"(2) The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapters III and VIII of chapter 53 of such title relating to classification and General and Senior Executive Service Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for ES–5 of the Senior Executive Service Schedule under section 5382 of that title.

"(3) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule;

"(4) Upon the request of the Chairman, the head of any federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law;

"(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(f) COMMISSION ACCESS TO INFORMATION.—(1) The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law;

"(2) The Commission may secure from any law enforcement agency of any State or Indian tribal government information necessary to enable it to carry out this Act. Upon request of the Chairman, the head of any State or tribal law enforcement agency shall furnish such information to the Commission, unless otherwise prohibited by law.

"(g) INVESTIGATIONS AND ACTIONS.—(1)(A) The Commission may, in its discretion, conduct such investigations as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of this Act or the rules and regulations promulgated thereunder and may require or permit any person to file with it a statement in writing, under oath, or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(B) The Commission is authorized, in its discretion, to investigate any facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of such provisions, in the prescribing of rules and regulations under this Act, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates;

"(2)(A) For the purpose of any investigation or any other proceeding under this Act, any member of the Commission or any officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing;

"(B) In case of contumacy by or refusal to obey any subpoena issued to any person, the Commission may invoke the jurisdiction of any court of the United States within the jurisdiction of which an investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

"(C) Any such court may issue an order requiring such person to appear before the Commission or member of the Commission or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof;

"(3) Whenever it shall appear to the Commission that any person is engaged or about to engage in acts or practices constituting a violation of any provision of this Act or rules or regulations thereunder, the Commission may—

"(A) in its discretion, bring an action in the proper district court of the United States or the United States District Court for the District of Columbia, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond; or

"(B) transmit such evidence as may be available concerning such acts or practices as may constitute a violation of any criminal laws of the United States to the Attorney General, who may institute the necessary criminal proceedings;

"(4) Upon application of the Commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus, injunctions, and orders commanding any person to comply with the provisions of this Act and the rules and regulations thereunder;

(7) Section 8 of the Act (25 U.S.C. 2707) is amended to read as follows:

SECTION 8 REQUIREMENTS AND PROCEDURES FOR APPLICANTS AND LICENSEES

"(a) REQUIREMENTS OF APPLICANTS AND LICENSEES.—(1)(A) It shall be the affirmative responsibility of each applicant for a license and each licensee to establish by clear and convincing evidence their individual qualifications, and for an applicant for a license for the management of a gaming operation, the qualifications of each person or entity that is required to be qualified under this Act;

"(B) For purposes of this section, the terms "applicant" and "licensee" shall include any person, any entity, any corporation, any company or any other organization for whom the Commission requires an approved license pursuant to section 7(c) of this Act as a condition of doing business in Indian country;

"(2)(A) Any applicant or licensee shall provide all information required by this Act and satisfy all requests for information pertaining to qualifications and in the form specified by the Commission;

"(B) All applicants and licensees shall waive the liability of the Commission and its members, employees and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings;

"(3) All applicants and licensees shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this Act and regulations promulgated thereunder;

"(4)(A) All applicants and licensees shall have the continuing duty to provide any assistance or information required by the Commission, and to cooperate in any inquiry or investigation conducted by the Commission and any inquiry, investigation, or hearing conducted by the Commission;

"(B) If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant or licensee refuses to comply, the application or license of such person may be denied or revoked by the Commission.

"(5) No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming

activities, except as authorized by this Act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in the operation of gaming activities;

"(6) Each applicant or licensee shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the Commission;

"(7)(A) All applicants and licensees, and all persons employed by a gaming service industry licensed pursuant to this Act, shall have a duty to inform the Commission of any action which they believe would constitute a violation of this Act;

"(B) No person who so informs the Commission shall be discriminated against by an applicant or licensee because of the supplying of such information;

"(8)(A) Any person who must be qualified pursuant to this Act in order to hold the securities of a licensee or any holding or intermediary company of a licensee may apply for qualification status prior to the acquisition of any such securities;

"(B) the Commission may determine to accept such an application upon a finding that there is a reasonable likelihood that, if qualified, the applicant will obtain and hold securities of a licensee sufficient to require qualification;

"(C) Such an applicant shall be subject to the provisions of this section and shall pay for the costs of all investigations and proceedings in relation to the application unless the applicant provides to the Commission an agreement with one or more licensees which states that the licensee or licensees will pay those costs;

"(b) LICENSE FOR THE MANAGEMENT OF A GAMING OPERATION—APPLICANT ELIGIBILITY.

"(1) No corporation shall be eligible to apply for a license for the management of a gaming operation unless—

"(A) The corporation shall be incorporated in one of the fifty states or by an Indian tribe, although such corporation may be a wholly or partially owned subsidiary of a corporation which is incorporated in one of the fifty states or of a foreign country;

"(B) The corporation shall maintain an office of the corporation on the premises licensed or to be licensed;

"(C) The corporation shall comply with all of the requirements of the laws of the state or Indian tribe pertaining to corporations in which the corporation is incorporated;

"(D) The corporation shall maintain a ledger in the principal office of the corporation which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the Commission and authorized agents of the Commission at all reasonable times without notice;

"(E) The corporation shall maintain all operating accounts required by the Commission and shall notify the Commission of the financial institution in which such operating accounts are located;

"(F) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of gaming operations and provide that the certificate of incorporation includes all provisions required by this Act;

"(G)(1) If the corporation is not a publicly-traded corporation, the corporation shall file with the Commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the Commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and

"(2) If the corporation is a publicly-traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the Commission pursuant to the provisions of this Act, such holder shall dispose of his interest in the corporation, provided that nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

"(H) If the corporation is not a publicly-traded corporation, the corporation shall establish to the satisfaction of the Commission that appropriate charter provisions create the absolute right of such non-publicly-traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the Commission disapproves a transfer in accordance with the provisions of this Act;

"(I) Any publicly-traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (H) for a publicly-traded corporation to be eligible to apply for a license for the management of a gaming operation; and

"(J) Any non-publicly-traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly-traded or not, shall establish to the satisfaction of the Commission that its charter provisions are the same as those required under paragraphs (H) and (I) for a non-publicly-traded corporation to be eligible to apply for a license for the management of a gaming operation;

"(K) The provisions of this subsection shall apply with the same force and effect with regard to applicants for a license and licensees for the management of a gaming operation which have a legal existence that is other than corporate to the extent which is appropriate;

"(c) LICENSE FOR THE MANAGEMENT OF A GAMING OPERATION—APPLICANT REQUIREMENTS.—

"(1) Any applicant for a license for the management of a gaming operation must produce information, documentation and assurances concerning the following qualification criteria—

"(A) Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers; and

"(B) Each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the Commission;

"(C)(1) Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the proposal of the management of a gaming operation submitted by the applicant or applicants, provided that this section shall not apply to banking or other licensed lending institutions and institutional investors;

"(2) Any such banking or licensed lending institution or institutional investor shall, however, produce for the Commission upon request any document or information which bears any relation to the proposal for the management of a gaming operation submitted by the applicant or applicants;

"(3) The integrity of financial sources shall be judged upon the same standards as the applicant;

"(4) In addition, each applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources as to the completion of the proposal for the management of the gaming operation;

"(D)(1) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity;

"(2) Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application;

"(3) Each applicant snall notify the Commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the United States, or of any state, jurisdiction, province or country;

"(4) In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is;

"(5) If the applicant has managed gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and the gaming operation, provided that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency;

"(E)(1) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and gaming management experience as to establish the likelihood of creation and maintenance of a successful, efficient gaming operation;

"(2) The applicant shall produce the names of all proposed key employees of the proposed gaming operation as they become known and a description of their respective or proposed responsibilities, and a full description of security system and management control proposed for the gaming operation and related facilities;

"(F)(1) Each applicant shall produce such information, documentation and assurances to enable the Commission to comply with the National Environmental Policy Act, the

National Historic Preservation Act, and the Endangered Species Act.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) In addition to other information required by this Act, a corporation applying for a license for the management of a gaming operation shall provide the following information—

"(A) the organization, financial structure and nature of all businesses operated by the corporation;

"(B) the names and personal employment and criminal histories of all officers, directors and principal employees of the corporation;

"(C) the names of all holding, intermediary and subsidiary companies of the corporation;

"(D) the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the Commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the Commission may require;

"(E) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the Commission may require, including the names, addresses and amounts held by all holders of such securities;

"(F) The terms upon which securities have been or are to be offered;

"(G) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

"(H) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

"(I) Names of persons other than directors and officers who occupy positions specified by the Commission or whose compensation exceeds an amount determined by the Commission, and the amount of their compensation;

"(J) A description of all bonus and profit-sharing arrangements;

"(K) Copies of all management and service contacts; and

"(L) A listing of stock options existing or to be created;

"(2) If a corporation applying for a license for the management of a gaming operation is, or if a corporation holding a license for the management of a gaming operation is to become, a subsidiary, each holding company and each intermediary company with respect thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be—

"(A) Qualify to do business is one of the fifty states or with a federally-recognized Indian tribe; and

"(B) If it is a corporation, register with the Commission and furnish the Commission with all the information required of a corporate licensee as specified in subsections (A) through (F) of this section and such other information as the Commission may require; or

"(C) If it is not a corporation, register with the Commission and furnish the Commission with such information as the Commission may prescribe;

"(3) No corporation shall be eligible to hold a license for the management of a gaming operation unless each officer; each director, each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the Commission has the ability to control the corporation or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the Commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a gaming operation key employee pursuant to the provisions of this Act;

"(4) No corporation which is a subsidiary shall be eligible to receive or hold a licensing for the management of a gaming operation unless each holding and intermediary company with respect thereto—

"(A) If it is a corporation, shall comply with the provisions of this section as if said holding or intermediary company were itself applying for a license for the management of a gaming operation, provided that the commission may waive compliance with the provisions of this section on the part of a publicly-traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the Commission is satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the publicly-traded corporation or elect one or more directors thereof; or

"(B) If it is not a corporation, shall comply with the provisions of this section as if said company were itself applying for a license for the management of a gaming operation;

"(5)(A) Any noncorporate applicant for a license for the management of a gaming operation shall provide the information required of this section in such form as may be required by the Commission;

"(B) No such applicant shall be eligible to hold a license for the management of a gaming operation unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the Commission has the ability to control the applicant, or whom the Commission may consider appropriate for approval or qualification, would individually be qualified for approval as a key employee pursuant to the provisions of this Act;

"(6) Notwithstanding the provisions of this section, and in the absence of a prima facie showing that there is any cause to believe that the institutional investor may be found unqualified, an institutional investor holding either—

"(A) under 10% of the equity securities of a holding or intermediary companies of a licensee for the management of a gaming operation, or

"(B) debt securities of a holding or intermediary companies, or another subsidiary company of a holding or intermediary companies which is related in any way to the financing of the licensee for the management of a gaming operation, where the securities represent a percentage of the outstanding debt of the company not exceeding 20%, or a percentage of any issue of the outstanding debt of the company not exceeding 50%, shall be granted a waiver of qualification if such securities are those of a publicly-traded corporation and its holdings of such securities were purchased for investment purposes only and upon request by the Commission, it files with the Commission a certified statement to the effect that it has no intention of influencing or affecting the affairs of the issuer, the licensee for the management of a gaming operation or its holding or intermediary companies, provided that it shall be permitted to vote on matters put to the vote of the outstanding security holders;

"(C) The Commission may grant a waiver of qualification to an institutional investor holding a higher percentage of such securities upon a showing of good cause and if the conditions specified in this subsection are met;

"(D) Any institutional investor granted a waiver under this subsection which subsequently determines to influence or affect the affairs of the issuer shall provide not less than 30 days notice of such intent and shall file with the Commission an application for qualification before taking any action that may influence or affect the affairs of the issuer, provided that it shall be permitted to vote on matters put to the vote of the outstanding security holders;

"(E) If an institutional investor changes its investment intent, or if the Commission finds reasonable cause to believe that the institutional investor may be found unqualified, no action other than divestiture shall be taken by such investor with respect to its security holdings until there has been compliance with the provisions of this Act including the execution of a trust agreement;

"(F) The licensee for the management of a gaming operation and its relevant holding, intermediary or subsidiary company shall immediately notify the Commission of any information about, or actions of, an institutional investor holding its equity or debt securities where such information or action may have an impact upon the eligibility of such institutional investor for a waiver pursuant to this subsection;

"(7) If at any time the Commission finds that an institutional investor holding any security of a holding or intermediary company of a licensee for the management of a gaming operation, or, where relevant, of another subsidiary company of a holding or intermediary company of a licensee for the management of a gaming operation which is related in any way to the financing of the licensee for the management of a gaming operation, fails to comply with the terms of this section, or if at any time the Commission finds that, by reason of the extent or nature of its holdings, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a licensee that qualification of the institutional investor is necessary to protect the public interest, the Commission may, in accordance with the provisions of this section of this Act, take any necessary action to protect the public interest, including requiring such an institutional investor to be qualified pursuant to the provisions of this Act;

"(d) LICENSING OF KEY EMPLOYEES OF GAMING OPERATIONS.—

"(1) No person may be employed as a key employee of a class III gaming operation unless he is the holder of a valid gaming operation key employee license issued by the Commission;

"(2) Each applicant must, prior to the issuance of any gaming operation key employee license, produce information, documentation and assurances concerning the following qualification criteria—

"(A) Each applicant for a gaming operation key employee license shall produce such information, documentation and assurances as

may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers;

"(B) In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the Commission;

"(C) Each applicant for a gaming operation key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity;

"(D) Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application;

"(E) Each applicant shall notify the Commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the United States or of any state of any jurisdiction, province or country;

"(F) In addition, each applicant shall, upon request of the Commission, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is;

"(G) If the applicant has been associated with gaming operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the Commission, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction, provided that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency; and

"(H) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and gaming operation experience as to establish the reasonable likelihood of success and efficiency in the particular position involved;

"(3) The Commission shall endorse upon any license issued hereunder the particular positions as defined by this Act or by regulation which the licensee is qualified to hold;

"(4) The Commission shall deny a gaming operation key employee license to any applicant who is disqualified on the basis of the criteria contained in section 7(c)(4) of this Act;

"(5) For the purposes of this section, gaming operation security employees shall be considered key employees of a gaming operation;

"(6) Key employees of a gaming operation directly related to gaming operation shall include, but not be limited to, boxmen, floormen, dealers or croupiers, cage personnel, count room personnel, slot and slot booth personnel, credit and collection personnel, gaming operation surveillance personnel, and gaming operation security employees whose employment duties require or authorize access to the gaming operation facility;

"(e) LICENSING AND REGISTRATION OF GAMING-RELATED CONTRACTORS AND SERVICE INDUSTRIES.—

"(1)(A) All gaming-related contractors and gaming service industries offering goods or services which directly relate to a gaming operation, including gaming equipment manufacturers, suppliers and repairers, schools teaching gaming and either playing or dealing techniques, and gaming operation security services, shall be licensed in accordance with the provisions of this Act prior to conducting any business whatsoever with a gaming operation applicant or licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not, provided that upon a showing of good cause by a gaming operation applicant or licensee for each business transaction, the Commission may permit an applicant for a gaming-related contractor or gaming service industry license to conduct business transactions with such gaming operation applicant or licensee prior to the licensure of that gaming-related contractor or gaming service industry applicant under this subsection;

"(B)(i) In addition to the requirements of paragraph (A) of this subsection, any gaming-related contractor or gaming service industry intending to manufacture, sell, distribute or repair gambling devices, other than antique slot machines, shall be licensed in accordance with the provisions of this Act prior to engaging in any such activities, provided that—

"(ii) upon a showing of good cause by a gaming operation applicant or licensee for each business transaction, the Commission may permit an applicant for a gaming-related contractor or gaming service industry license to conduct business transactions with the gaming operation applicant or licensee prior to the licensure of that contractor or service industry applicant under this subsection, and provided further that—

(iii) upon a showing of good cause by an applicant required to be licensed as gaming-related contractor or gaming service industry pursuant to this paragraph, the Commission may permit the contractor or service industry applicant to initiate the manufacture of gambling devices or engage in the sale, distribution or repair of gambling devices with any person other than a gaming operation applicant or licensee, its employees or agents, prior to the licensure of that contractor or service industry applicant under this subsection;

"(2)(A) Each gaming-related contractor or gaming service industry in subsection (1) of this section, as well as its owners, management and supervisory personnel and other principal employees must qualify under the standards established for qualification of a gaming operation key employee under this Act;

"(B) In addition, if the business or enterprise is a school teaching gaming and either playing or dealing techniques, each director, instructor, principal employee, and sales representative employed thereby shall be licensed under the standards established for qualification of a key gaming operation employee under this Act, provided that nothing in this subsection shall be deemed to require, in the case of a public school district or a public institution of higher education, the licensure or qualification of any individuals except those instructors and other principal employees responsible for the teaching of playing or dealing techniques;

"(C) The Commission, in its discretion, may issue a temporary license to an applicant for an instructor's license upon a finding that the applicant meets the educational and experimental requirements for such license, that the issuance of a permanent license will be restricted by necessary investigations, and that temporary licensing is necessary for the operation of a gaming school;

"(3)(A) All gaming-related contractors and gaming service industries not included in subsection (1) of this section shall be licensed in accordance with rules of the Commission prior to commencement or continuation of any business with a gaming operation applicant or licensee or its employees or agents;

"(B) Such gaming-related contractors and gaming service industries, whether or not directly related to gaming operations, shall include any person, entity or enterprise contracting with gaming operation applicants or licensees or their employees or agents;

"(C) The Commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates—

"(i) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and

"(ii) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this Act;

"(D) Upon granting an exemption or at any time thereafter, the Commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the Commission and, upon request, to provide information in the same manner as required of a gaming-related contractor or gaming service industry licensed pursuant to this subsection, provided that no exemption be granted unless the gaming-related contractor or gaming service industry complies with the requirements of this section of this Act.

(8) Section 9 of the Act (25 U.S.C. 2708) is amended to read as follows:

"SEC. 9. REQUIREMENTS FOR THE CONDUCT OF CLASS I AND CLASS II GAMING ON INDIAN LANDS.

"(a) CLASS I GAMING.—Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act;

"(b) CLASS II GAMING.—(1) Any Class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act;

"(2) An Indian tribe may engage in, or license and regulate class II gaming on Indian lands within such tribe's jurisdiction, if—

"(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity;

"(B) such gaming is not otherwise specifically prohibited on Indian lands by Federal law; and

"(C) the Class II gaming operation meets the requirements of sections 7 and 9 of this Act;

"(3) The Commission shall insure that any class II gaming operation on Indian lands meets the following requirements—

"(A) a separate license is issued by the Indian tribe for each place, facility, or location on Indian lands at which Class II gaming is conducted;

"(B) the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any Class II gaming activity, unless the conditions of subsection (3)(I) of this section apply;

"(C) net revenues from any Class II gaming activity are not to be used for purposes other than—

"(i) to fund tribal government operations or programs;

"(ii) to provide for the general welfare of the Indian tribe and its members;

"(iii) to promote tribal economic development;

"(iv) to donate to charitable organizations; or

"(v) to help fund operations of local government agencies;

"(D) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, are provided by the Indian tribal government to the Commission;

"(E) all contracts for supplies, services, or concessions for a contract amount in excess of $10,000 annually, except contracts for professional legal or accounting services, relating to such gaming shall be subject to such independent audits and audit by the Commission;

"(F) the construction and maintenance of a Class II gaming facility, and the operation of Class II gaming is conducted in a manner which adequately protects the environment and the public health and safety; and

"(G) there is an adequate system which—

"(i) ensures that background investigations are conducted on primary management officials, key employees and persons having a material involvement, either directly or indirectly, in a licensed Class II gaming operation, and gaming-related contractors associated with a licensed Class II gaming operation and that oversight of such officials and their management is conducted on an ongoing basis; and

"(ii) includes—

"(I) tribal licenses for persons involved in Class II gaming operations, including but not limited to key employees, gaming related contractors, gaming service industries, and any person having a material involvement, either directly or indirectly, with a licensed gaming operation in accordance with Section 8 of this Act;

"(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

"(III) notification by the Indian tribal government to the Commission of the results of such background investigation before the issuance of any of such licenses;

"(H) Net revenues from any Class II gaming activities conducted or licensed by any Indian tribal government may be used to make per capita payments to members of the Indian tribe only if—

"(i) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (3)(C) of this section;

"(ii) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (3)(C) of this section;

"(iii) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

"(iv) the per capita payments are subject to federal taxation and tribes notify members of such tax liability when payments are made;

"(I)(i) A separate license is issued for any Class II gaming operation owned by any person or entity other than the Indian tribal government and conducted on Indian lands, and such license includes the requirements set forth in the subclauses of subparagraph (C)(i) and are at lest as restrictive as those established by State law governing similar gaming with the jurisdiction of the State within which such Indian lands are located;

"(ii) No person or entity, other than the Indian tribal government, shall be eligible to receive a tribal license to own a Class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State;

"(iii) The provisions of subparagraph (i) of this paragraph and the provisions of subparagraphs (B) and (C) of subsection (3) shall not bar the continued operation of an individually-owned Class II gaming operation that was operating on September 1, 1986, if—

"(I) such gaming operation is licensed and regulated by an Indian tribal government;

"(II) income to the Indian tribal government from such gaming is used only for the purposes described in paragraph (c)(3) of this subsection,

"(III) not less than 60 percent of the net revenues is income to the licensing tribal government, and

"(IV) the owner of such gaming operation pays an appropriate assessment to the Commission under section 15 for regulation of such gaming;

"(iv) The exemption from application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming operation remains within the same nature and scope as operated on October 17, 1988;

"(v) The Commission shall maintain a list of each individually-owned gaming operation to which clause (iii) applies and shall publish such list in the Federal Register;

"(d)(1) LICENSE REVOCATION.—If, after the issuance of a license by an Indian tribal government, reliable information is received from the Commission indicating that any licensee does not meet the standards established under section 8 and the regulations promulgated by the Commission, the Indian tribal government shall suspend such license and, after notice and hearing, may revoke such license.

(9) Section 10 of the Act (25 U.S.C. 2709) is amended to read as follows:

SEC. 10. CLASS III GAMING ON INDIAN LANDS.

"(a). REQUIREMENTS FOR THE CONDUCT OF CLASS III GAMING ON INDIAN LANDS.—

"(1) Class III gaming activities shall be lawful on Indian lands only if such activities are-

"(A) authorized by a compact that:

"(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

"(ii) meets the requirements of subsection (b) of this section, and

"(iii) is approved by the Secretary;

"(B) located in a State where the requirements of this section of the Act are satisfied, and the gaming activity is determined to be eligible for inclusion in a compact in accordance with the provisions of this section of the Act;

"(C) conducted in conformance with a compact entered into by the Indian tribe under paragraph (3) that is in effect.

"(D) the Class III gaming operation meets the requirements of Sections 7, 8, 10 and 11 of this Act.

"(2)(A) The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized Class III gaming on the Indian lands of the Indian tribe. Such revocation shall render Class III gaming illegal on the Indian lands of such Indian tribe.

"(B) The Indian tribe shall submit any revocation ordinance or resolution described in subparagraph (A) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

"(C) Notwithstanding any other provision of this subsection—

"(i) any person or entity operating a Class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in subparagraph (A) that revokes authorization for such Class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under subparagraph (B), continue to operate such activity in conformance with the compact entered into under paragraph (3) that is in effect; and

"(ii) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

"(3)(A)(i) Any Indian tribe having jurisdiction over the lands upon which a Class III gaming activity is to be conducted may request the Secretary to enter into negotiations for a compact.

"(ii) Such request shall be in writing and shall specify the gaming activity or activities to be included in the compact and within 30 days the Secretary shall determine if any such requested activities should not be included in the compact under the laws of the State in which the Indian tribe is located in conformity with the standards set forth in subparagraphs (C) and (D) of this subsection and shall so notify the Indian tribe.

"(iii) Such negotiations shall be completed within 120 days after the expiration of the 60-day period in subparagraph (B)(iii) of this subsection.

"(iv) Any compact negotiated under this paragraph shall be effective upon its publication in the Federal Register by the Secretary.

"(v) The Commission, pursuant to section 7, shall monitor, regulate and license Class III gaming with respect to any compact negotiated under this paragraph and published by the Secretary in the Federal Register.

"(vi) Any compact negotiated under this paragraph shall be for a fixed term of years, consistent with the purposes of this Act.

"(vii) A tribal request for a change in a compact shall be considered a request for purposes of this subsection.

"(B)(i) When an Indian tribe makes a request pursuant to subparagraph (A), it shall also notify the State within which the gaming activity is to be conducted.

"(ii) Such notice to the State shall include the specific gaming activities which the Indian tribe is requesting that the Secretary include in the compact.

"(iii) Within 60 days from such notification, the State may request the Indian tribe to enter into negotiations for a compact. The State and Indian tribe by mutual agreement may extend the 60-day period.

"(iv) When a State requests an Indian tribe to negotiate a compact within the designated time period, that request shall toll the operation of subparagraph (A), and shall be deemed to constitute a voluntary waiver of the sovereign immunity of the State for the purposes of this Act.

"(C) Any compact negotiated under subparagraph (A) may include provisions relating to—

"(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

"(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

"(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

"(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

"(v) remedies for breach of contract;

"(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

"(vii) any other subjects that are reasonably related to the operation of gaming activities, and the impact on tribal, State, and local governments.

"(4) Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section shall be construed as conferring upon a State or any of its political subdivisions the authority to impose any tax, fee, charge or other assessment upon an Indian tribe, an Indian gaming operation or the value generated therein, or any person or entity authorized by an Indian tribe to engage in a Class III gaming activity in conformity with the provisions of this Act.

"(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate Class III gaming on its Indian lands concurrently with the State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or the laws and regulations made applicable by any compact entered into by the Indian tribe under paragraph (3) that is in effect.

"(6) The provisions of section 5 of the Act of January 2, 1951 (15 U.S.C. 1175) shall not apply to any gaming activity conducted pursuant to a compact entered into after the effective date of the Indian Gaming Regulatory Act Amendments Act, but in no event shall this paragraph, as amended by such Act, be construed as invalidating any exemption from section 5 under this Act prior to its enactment by the Indian Gaming Regulatory Act Amendments Act of 1994, or under any compact, or procedure in lieu of a compact, in effect on the date of enactment of the Indian Gaming Regulatory Act Amendments Act.

"(7)(A) The United States district courts shall have jurisdiction over—

"(i) any cause of action for a declaratory judgment brought by an Indian tribe or a State pursuant to subparagraph (C), or the review of any decision by the Secretary with regard to the gaming activities which are subject to inclusion in a compact or to resolve any dispute pursuant to subparagraph (E) or (F);

"(ii) any cause of action initiated by a State or Indian tribe to enjoin a Class III gaming activity located on Indian lands and conducted in violation of any compact entered into under paragraph (3) that is in effect; or

"(iii) any cause of action initiated by the Secretary to enforce any provision of a compact.

"(B)(i) Where a State elects to negotiate a compact, within 30 days after notice of the election, the State shall notify the tribe if it determines that any gaming activity requested is prohibited as a matter of State criminal law and is not otherwise subject to negotiation under this Act.

"(ii) Following the State's notification to the tribe of its determination, the parties shall have 30 days in which to meet and confer to resolve any dispute regarding the State's determination.

"(iii) Notwithstanding any declaratory judgment action pending under subparagraph (C), a tribe and State may negotiate and establish procedures for mediating any issue not subject to the declaratory judgment action.

"(C) No later than 120 days after the State has notified the tribe of its election to negotiate a compact, or such longer period as may be agreed to in writing by the parties, either party may initiate an action in an appropriate United States district court for a declaration whether the disputed gaming activity is subject to compact negotiation under this Act. In any such declaratory action, the court shall declare that the disputed gaming activity as a matter of Federal law shall be the subject of negotiation if it finds that—

"(i) the disputed gaming activity is not prohibited as a matter of State criminal law, or

"(ii) even if the disputed activity is prohibited as a matter of State criminal law, the gaming activity meets one or more of the following criteria:

"(I) Its principal characteristics are not distinguishable from a gaming activity that is not prohibited by State criminal law and there is no rational basis for differentiating between the disputed gaming activity and the activity not prohibited by the state;

"(II) State law permits the disputed gaming activity subject to regulation;

"(III) As a matter of State law any person, organization, or entity within the State may engage in the disputed gaming activity for any purpose, except that the permitting of a social gaming activity does not make that activity subject to negotiations pursuant to this section after the date of the enactment of the Indian Gaming Regulatory Act Amendments Act; provided that this exception shall have no effect on the continued validity of any compacts or procedures in lieu thereof which are in effect on the date of enactment of the Indian Gaming Regulatory Act Amendments Act;

"(D) In any determination of whether a gaming activity is subject to compact negotiation under this Act, the following categories of gaming activities are distinguishable from each other:

"(i) gambling device;

"(ii) lottery game;

"(iii) banking game;

"(iv) parimutuel wagering;

"(v) other games of chance.

"(E) Where the State elects to negotiate a compact under this Act, the negotiation shall be completed within 120 days after the expiration of the 60-day period in paragraph (3)(B)(iii) of this subsection, unless the State and Indian tribe by mutual agreement extend the time period.

"(F) The Secretary in consultation with the Indian tribes and the States shall develop a panel of independent mediators which shall be periodically updated. If after 120 days from a State's request for negotiations or a final declaratory judgment not subject to further review, the State and Indian tribe have not agreed to recommend a compact to the Secretary, the State and Indian tribe shall enter into compulsory mediation, pursuant to the following procedures:

"(i) The Secretary shall provide the State and Indian tribe with a list of names of 3 mediators randomly selected from the panel of independent mediators. The State and Indian tribe each shall remove a different 1 of the 3 from the list, and the remaining mediator shall conduct the mediation.

"(ii) The mediator shall attempt to achieve a compact within a 60-day period, which period may be extended at the agreement of the State and Indian tribe.

"(iii) If compulsory mediation fails, the State and Indian tribe shall submit their last best offer to the mediator, who shall evaluate the offers under the terms of the Act and recommend a compact to the Secretary, except that by mutual agreement the parties may substitute either compulsory arbitration, or a decision by the Secretary instead of a mediator's recommendation.

"(iv) The recommended compact also shall include such provisions which in the opinion of the mediator or arbitrator best meet the objectives of this Act and are consistent with any declaratory judgment issued pursuant to subparagraph (C).

"(G) If the parties or the mediator or arbitrator pursuant to this paragraph recommend a compact to the Secretary, the Secretary shall approve such compact and shall publish it in the Federal Register; except that the compact shall not be approved by the Secretary unless it contains provisions for internal controls which are consistent with this Act and the regulations promulgated by the Commission, including, without limitation, provisions relating to cash flow transactions, recordkeeping and reporting, accounting, security, licensing and training of employees, and related matters. The compact also shall not be approved if it violates—

"(i) any provision of this Act or the regulations promulgated by the Commission;

"(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian reservations; or

"(iii) the trust obligations of the United States to Indians.

"(H) Except for an appeal under subchapter II of chapter 5, of title 5, United States Code, by an Indian tribe or State on the publication of a compact, publication of a compact pursuant to this subsection which permits a

form of Class III gaming shall, for the purposes of this Act, be conclusive evidence that such Class III gaming is an activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal court.

"(I) If the Secretary does not approve or disapprove a compact under this subsection before the date that is 45 days after the date that the compact is submitted to the Secretary for approval, or after the expiration of the 180-day period with respect to the last compact proposal in subparagraph (3), the compact shall be considered approved, but only to the extent that the compact is consistent with the provisions of this Act and any regulations promulgated by the Commission.

"(J) The Secretary shall publish in the Federal Register notice of any compact that has been approved, or considered to have been approved, under this paragraph.

"(8)(A) The Secretary is authorized to approve any compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

"(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

"(i) any provision of this Act or the regulations promulgated by the Commission;

"(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or

"(iii) the trust obligations of the United States to Indians.

"(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act and the regulations promulgated by the Commission.

"(D) The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this paragraph.

"(b) EFFECT OF AMENDMENTS.—Class III gaming activities that are as a matter of Federal law, lawful in any jurisdiction on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1994, shall, notwithstanding any provisions of this Act, remain lawful for purposes of section 10.

(10) Section 11 of the Act (25 U.S.C. 2710) is amended to read as follows:

SEC. 11. REVIEW OF CONTRACTS.

"(a) CONTRACTS INCLUDED.—The Commission shall review and approve or disapprove—

"(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under the Act; and

(2) gaming-related contracts

"(b) MANAGEMENT CONTRACT REQUIREMENTS.—The Commission shall approve any management contract between an Indian tribe and a person or entity licensed by an Indian tribe or the Commission which is entered into pursuant to this Act only if it determines that the contract provides for—

"(1) adequate accounting procedures that are maintained and for verifiable financial reports that are prepared by or for the governing body of the Indian tribe on a monthly basis;

"(2) access to the daily gaming operations by appropriate officials of the Indian tribe who shall have the right to verify the daily gross revenues and income derived from any gaming activity;

"(3) a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs;

"(4) an agreed upon ceiling for the repayment of any development and construction costs;

"(5) grounds and mechanisms for the termination of the contract, but any such termination shall not require the approval of the Commission; and

"(6) such other provisions as the Commission deems necessary as provided for in regulations promulgated by the Commission.

"(c) MAXIMUM TERMS AND FEES FOR MANAGEMENT CONTRACTS.—The Commission may approve a management contract providing for a fee of up to 40 percent of net revenues from an Indian gaming activity determined in accordance with generally accepted accounting principles and a term of up to ten years, pursuant to regulations to be promulgated by the Commission. Such regulations shall take into consideration the nature of the management services being provided, the capital investment being made, the income projections for the particular gaming activity, and any other factors the Commission deems relevant.

"(d) GAMING-RELATED CONTRACT REQUIREMENTS.—The Commission shall approve a gaming related contract between an Indian tribe and a person or entity licensed by the Commission which is entered into pursuant to this Act only if it determines that the contract provides for—

"(1) grounds and mechanisms for termination of the contract, but such termination shall not require the approval of the Commission; and

"(2) such other provisions as the Commission deems necessary as provided for in regulations promulgated by the Commission.

"(e) TIME PERIOD FOR REVIEW.—By no later than the date that is 180 days after the date on which a management contract or other gaming-related contract is submitted to the Commission for approval, the Commission shall approve or disapprove such contract on its merits. The Commission may extend the 180-day period by not more than 90 days if the Commission notifies the Indian tribe in writing of the reason for the extension of time. The Indian tribe may bring an action in a Federal district court to compel action by the Commission if a contract has not been approved or disapproved within the period required by this subsection.

"(f) CONTRACT MODIFICATIONS AND VOID CONTRACTS.—The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it determines that any of the provisions of this Act have been violated.

"(g) INTERESTS IN REAL PROPERTY.—No contract regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and such transfer or conveyance is clearly specified in the contract.

"(h) AUTHORITY OF THE SECRETARY.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) does not extend to any contracts which are regulated pursuant to this Act.

"(i) DISAPPROVAL OF CONTRACTS.—The Commission shall not approve any contract if it determines that—

"(1) any person having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock—

"(A) is an elected member of the governing body of the Indian tribe which is the party to the contract;

"(B) has been or subsequently is convicted of any felony or gaming offense;

"(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded by the Commission; or

"(D) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

"(2) the contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

"(3) the contractor has deliberately or substantially failed to comply with the terms of the contract; or

"(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(11) Section 12 of the Act (25 U.S.C. 2711) is amended as read as follows:

"SEC. 12. REVIEW OF EXISTING COMPACTS AND CONTRACTS; INTERIM AUTHORITY.

"(a) REVIEW OF EXISTING COMPACTS.—(1) At any time after the Commission authorized by the Indian Gaming Regulatory Act Amendments Act has been sworn in and regulations have been promulgated for the implementation of the Act as amended, the Commission shall notify each Indian tribe and state which, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act, entered into a compact that was approved by the Secretary, that the compact must be submitted to the Commission for its review within 60 days of such notification. Any such compact shall be valid under this Act and shall remain in full force and effect in accordance with its terms, unless the Commission determines that the regulatory and licensing provisions of the compact fail to meet the requirements of this Act and any regulations promulgated by the Commission.

"(2) If the Commission should determine that a compact fails to meet the regulatory and licensing requirements of this Act and any regulations promulgated by the Commission, then the Commission shall so notify the Indian tribe and the State and the Commission shall provide for the direct regulation and licensing of the gaming activities authorized by such compact pursuant to this Act until such time as the Indian tribe or the Indian tribe and the State have developed regulations and licenses to govern the gaming activity which meet or exceed the requirements imposed by this Act and any regulations promulgated by the Commission.

"(b) REVIEW OF EXISTING CONTRACTS.—(1) At any time after the Commission authorized by the Indian Gaming Regulatory Act Amendments Act is sworn in and promulgated regulations for the implementation of the Act as amended, the Commission shall notify each Indian tribe and management contractor who, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act, entered into a management contract that was approved by the Secretary,

that such contract, including all collateral agreements relating to the gaming activity, must be submitted to the Commission for its review within 60 days of such notification. Any such contract shall be valid under this Act, unless it is disapproved by the Commission under this section.

"(2)(A) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to this section, the Commission shall subject such contract to the requirements and procedures under section 11 of this Act.

"(B) If the Commission determines that a management contract submitted under this section meets the requirements of section 11, and the management contractor obtains all of the required licenses, the Commission shall approve the management contract.

"(C) If the Commission determines that a contract submitted under this section does not meet the requirements of section 11, then the Commission shall provide written notification to the parties to such contract of the necessary modifications and the parties shall have 180 days to make the modifications.

"(c) INTERIM AUTHORITY OF THE NATIONAL INDIAN GAMING COMMISSION.—Notwithstanding any other provision of this Act, the Secretary and the Chairman and the associate members of the National Indian Gaming Commission who are holding office on the date of enactment of the Indian Gaming Regulatory Act Amendments Act shall continue to exercise those authorities vested in them by the Act until such time as the members of the Commission authorized by the Act as amended are sworn into office. The Commission authorized by the Act as amended shall exercise all of the authority conferred on it by the Act as amended and shall enforce all of the regulations previously promulgated under the Act until the same are revised or superseded by regulations promulgated by the Commission to implement the Act as amended.

(12) Section 13 of the Act (25 U.S.C. 2712) is repealed.

(13) Section 14 of the Act (25 U.S.C. 2713) is redesignated as section 13 and is amended to read as follows:

"SEC. 13. CIVIL PENALTIES.

"(a) AMOUNT.—Any person who commits any act or causes to be done any act that violates any provision of this Act or the rules or regulations promulgated thereunder, or omits to do any act or causes to be omitted any act that is required by any provision or such rule or regulation shall be subject to a civil penalty not to exceed $50,000 per day for each such violation.

"(b) ASSESSMENT AND COLLECTION.—Any civil penalty under this section shall be assessed by the Commission and collected in a civil action brought by the Attorney General on behalf of the United States. Before referral of civil penalty claims to the Attorney General, civil penalties may be compromised by the Commission after affording the person charged with a violation of this Act, or the rules or regulations promulgated by the Commission an opportunity to present views and evidence in support thereof to establish that the alleged violation did not occur. In determining the amount of such penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior violations, ability to pay, the effect on ability to continue to do business, and such other matters as justice may require.

"(c) TEMPORARY CLOSURES.—(1) The Commission may order the temporary closure of all or part of an Indian gaming operation for substantial violations of the provisions of this Act or rules or regulations promulgated by the Commission.

"(2) Not later than 30 days after the issuance of an order of temporary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing before the Commission to determine whether such order should be made permanent or dissolved. A hearing shall be conducted within 30 days after the request for a hearing and a final decision shall be rendered 30 days after the completion of the hearing.

(14) Section 15 of the Act (25 U.S.C. 2714) is redesignated as section 14 and is amended to read as follows:

"SEC. 14. JUDICIAL REVIEW.

"Decisions made by the Commission pursuant to sections 7, 8, 9, 10, 11, 12, and 13 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5".

(15) Section 16 of the Act (25 U.S.C. 2715) is repealed.

(16) Section 17 of the Act (25 U.S.C. 2716) is repealed.

(17) Section 18 of the Act (25 U.S.C. 2717) is redesignated as section 15 and is amended to read as follows:

"SEC. 15. COMMISSION FUNDING.

"(a) ANNUAL FEES.—(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each Class II and Class III gaming activity that is regulated by this Act.

"(2) The rate of the fees imposed under the schedule established under paragraph (1) shall be not less than 0.5 percent nor more than 2 percent of the gross revenues of each gaming operation regulated by this Act.

"(3) The Commission, by a vote of a majority of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a monthly basis.

"(4) The fees to be paid by a gaming operation may be adjusted downward by the Commission to the extent that regulatory functions are performed by the tribe or the tribe and a state, pursuant to regulations promulgated by the Commission.

"(5) Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to the regulations of the Commission, be grounds for revocation of the approval of the Commission of any license required under this Act for the operation of gaming activities.

"(6) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

"(7) For purposes of this section, gross revenue shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

"(b) REIMBURSEMENT OF COSTS.—The Commission is authorized to assess any applicant, except the governing body of an Indian tribe, for any license required pursuant to this Act for the actual costs of conducting all reviews and investigations necessary to determine whether a license should be granted or denied pursuant to this Act.

"(c)(1) The Commission, in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

"(2) The budget of the Commission may include a request for appropriations as authorized by section 16 of this Act.

"(3) A request for appropriations pursuant to paragraph (2) shall be submitted by the Commission directly to the Congress beginning in the first full fiscal year after the date of enactment of the Indian Gaming Regulatory Act Amendments Act.

(18) Section 19 of the Act (25 U.S.C. 2718) is redesignated as section 16 and is amended to read as follows:

"SEC 16. AUTHORIZATION OF APPROPRIATIONS.

"Subject to the provisions of section 15 of this Act, there are hereby authorized to be appropriated and to remain available until expended, $5,000,000 to provide for the operation of the Commission for fiscal years 1996, 1997 and 1998.

(19) Section 20 of the Act (25 U.S.C. 2719) is redesignated as section 17 and is amended to read as follows:

"SEC. 17. GAMING ON LANDS ACQUIRED AFTER ENACTMENT OF THIS ACT.

"(a) GAMING PROSCRIBED ON LANDS ACQUIRED IN TRUST.—Except as provided in subsection (b), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless—

"(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

"(2) the Indian tribe has no reservation on the date of enactment of this Act and—

"(A) such lands are located in Oklahoma and

"(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

"(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

"(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

"(b) EXCEPTIONS.—Subsection (a) will not apply when—

"(1) the Secretary, after consultation with the Indian tribe and a review of the recommendations, if any, of the Governor of the State in which such lands are located, and any other State and local officials, including officials of other Indian tribes or adjacent States, determines that a gaming establishment would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community; or

"(2) lands are taken in trust as part of—

"(A) a settlement of a land claim,

"(B) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

"(C) the restoration of lands for an Indian tribe that is restored to Federal recognition.

"(3) Subsection (a) shall not apply to—

"(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled *St. Croix Chippewa Indians of Wisconsin v. United States*, Civ. No. 86-2278, or

"(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within one

mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

"(c) AUTHORITY OF THE SECRETARY.—Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

"(d) APPLICATION OF THE INTERNAL REVENUE CODE.—(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a compact entered into under Section 10 of this Act that is in effect, in the same manner as such provisions apply to State gaming and wagering operations, and any exemptions allowed to States from taxation of such gaming or wagering operations shall be allowed to Indian tribes.

"(2) The provisions of section 6050I of the Internal Revenue Code of 1986 shall apply to an Indian gaming establishment not designated by the Secretary of the Treasury as a financial institution pursuant to chapter 53 of title 31, United States Code.

"(3) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date of enactment of this Act unless such other provision of law specifically cites this subsection.

(20) Section 21 of the Act (25 U.S.C. 2720) is redesignated as section 18.

(21) Section 22 of the Act (25 U.S.C. 2721) is redesignated as section 19.

(22) Section 23 of the Act is redesignated as section 20.

(23) Section 24 of the Act is redesignated as section 21.

(24) At the end of the Act, add the following new section 22:

"SEC. 22. Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z) respectively; and

(2) by inserting after subparagraph (W) the following new subparagraph:

"(X) an Indian gaming establishment:".

Mr. WELLSTONE. Mr. President, let me commend my two colleagues, the Senator from Hawaii and the Senator from Arizona.

I am honored to serve on the Select Committee on Indian Affairs. There simply are not two Senators who are more committed to Indian people in this country, and they are dealing with an extremely difficult issue.

I appreciate their leadership. I am going to carefully examine this, and I hope to be able to work with them and be part of this effort.

I thank them and their staffs for really very, very important work.

By Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. DECONCINI, and Mrs. HUTCHISON):

S. 2231. A bill to amend the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") to authorize appropriations for each of fiscal years 1994 through 2001 for the construction of wastewater treatment works to provide water pollution control in or near the United States-Mexico border area, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. DECONCINI) (by request):

S. 2232. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for each of fiscal years 1994 through 1998 for the construction of wastewater treatment works to serve United States colonias by providing water pollution control in the vicinity of the international boundary between the United States and Mexico, and for other purposes; to the Committee on Environment and Public Works.

CLEAR WATER ACT-AMENDMENT LEGISLATION

Mr. BINGAMAN. Mr. President, today I am introducing legislation to amend the Clean Water Act. I believe this bill is particularly important because it follows through on a critical commitment. That is a commitment that convinced many of my colleagues in the Senate to ultimately pass the North American Free-Trade Agreement. This pledge was to ensure the cleanup and future preservation of the environment along the United States-Mexico border—an area already suffering from a lack of infrastructure which is needed to provide the basic level of protection to human health and the environment.

The legislation I am introducing today—the United States-Mexico Border Water Pollution Control Act—will authorize funding for the specific construction of international wastewater treatment facilities in the vicinity of the United States-Mexico border.

Mr. President, the United States-Mexico border stretches 2,000 miles and consists of over 9 million people living within 65 miles of that border. Rapid population growth and industrialization in the border cities has overwhelmed existing wastewater, water supply, and solid waste infrastructure. Untreated domestic and industrial sewage currently flows north to the United States and into the Rio Grande River. Thousands of residents lack safe drinking water and adequate solid waste disposal facilities.

The Federal Government must meet NAFTA's promise that bilateral cooperation and funding of environmental cleanup projects will be a top priority. The NAFTA agreement establishes a new environmental infrastructure which gives United States-Mexico border communities a much greater role in determining their needs and how to fill them. Specifically, the NAFTA agreement establishes the Border Environmental Cooperation Commission [BECC]—which will assist border States and local communities to coordinate, design and finance environmental infrastructure projects with a crossborder impact.

The BECC will have a binational board of directors comprising of five members from each country. The U.S. members will consist of the Administrator of the Environmental Protection Agency, the Commissioner of the International Boundary and Water Commission, and three other border representatives. The BECC will include an advisory council with nine members from each country.

The main purposes of this organization is to help find the financing for high priority border projects. However, the Environmental Protection Agency will have to provide initial grants for wastewater projects. Mexico and the United States have each committed to provide $700 million in Federal grants over 7 to 10 years.

While the President has requested $100 million for fiscal year 1995 for border infrastructure funding, EPA must have congressional authorization to receive funding. The legislation I am introducing today would provide the needed authorization.

I want to make clear that while this funding is for binational projects, U.S. citizens will realize substantial benefits from potential border infrastructure improvements. About 6 million people live in metropolitan areas along the United States-Mexico border. This population is critically impacted by water pollution coming across the border from Mexico in areas such as the Tijuana River and New River in California, the Santa Cruz River in Arizona, and the Rio Grande in Texas and my home State of New Mexico. By investing in water pollution control in these areas, there is a direct and important benefit to U.S. citizens in terms of health protection, crop protection, and improved recreational benefits and increased property values.

I also want to stress how important the authorization of the BECC is for the entire population of the country. The United States has a strong competitive advantage for providing equipment, instrumentation and professional services for the construction of Mexico wastewater facilities along the border. With a potential need of almost $8 billion in border water-related facilities over the next decade, up to $2 billion of business could be generated in U.S. products and services. United States jobs will be generated in the equipment manufacturing and professional services sectors which are found in almost all 50 States.

For example, the Flyght Corp. which manufactures pumps in Norwalk, CT, supplies pumps for all the International Boundary Water Commission projects. In another border project, the concession was granted to the U.S. Filter Corp., which has manufacturing, processing, and assembling facilities located in Iowa, New Jersey, Minnesota, the State of Washington, Illinois, and Pennsylvania. Most pump

manufacturers are located in the Northeast United States and in Midwestern States such as Wisconsin, Michigan, Kansas, Missouri, and Indiana. With the passage of this legislation and the authorization of the BECC, U.S. companies all over the country stand to benefit.

Specifically, the bill I am introducing today would allow EPA to provide financial or other assistance to the Border Environment Cooperation Commission, the International Boundary and Water Commission, the United States and Mexico, and any appropriate Federal Agency, State, or local governmental entity for the design and construction of wastewater treatment facilities in the vicinity of the United States-Mexico border.

Mr. President, this bill authorizes activities that are good for the environment along the United States-Mexico border and good for the economy of the entire United States.

I want to thank EPA Administrator Carol Browner for her leadership in assuring the administration's commitment that NAFTA would provide the needed infrastructure to cleanup and protect the environment of this rapidly growing area.

I look forward to working with my colleagues in the Senate to pass this important legislation.

Mr. President, I would also like to take this opportunity to introduce a bill on behalf of the administration. This legislation—the U.S. Colonias Water Pollution Control Act—would authorize funding for domestic wastewater facilities for colonias in States along the United States-Mexico border.

Mr. President, last July I introduced legislation S. 1286 the Colonias Wastewater Treatment Act of 1993 that would provide desperately needed funding to these U.S. communities. The bill I have been asked to introduce today differs from mine in the amount of funding a State is required to contribute. I am concerned about the State match requirement and have shared this with the Environmental Protection Agency. I am pleased that EPA Administrator Carol Browner has stated she is open to working this issue out so that the affected border States like my home State of New Mexico can participate in the great program. I look forward to working with the EPA and the other border States—Arizona, Texas, and California to reach a compromise on this important issue.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S.-Mexico Border Water Pollution Control Act".

SEC. 2. WASTEWATER TREATMENT WORKS IN U.S.-MEXICO BORDER AREA.

Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361 et seq.) is amended by adding at the end the following new section:

"WASTEWATER TREATMENT WORKS IN U.S.-MEXICO BORDER AREA

"SEC. 520. (a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water, ground water, and water quality of the U.S.-Mexico border area which is endangered and is being polluted by raw or partially treated sewage, in furtherance of the goals of the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank (signed November 16 and 18, 1993), and this Act. This section shall not be construed so as to affect or impair the provisions of any international agreement of the United States. Nor shall this section be construed so as to affect or impair any Federal legislation applicable to the Border Environment Cooperation Commission, the North American Development Bank, or the International Boundary and Water Commission, the United States and Mexico.

'(b) FINANCIAL ASSISTANCE FOR WASTEWATER TREATMENT WORKS.—The Administrator is authorize to provide financial and other assistance to the Border Environment Cooperation Commission, any appropriate Federal, State, or local governmental entity, and the International Boundary and Water Commission, the United States and Mexico, subject to such terms and conditions as the Administrator considers appropriate, for planning, design, and construction of wastewater treatment works for the purposes specified in subsection (a). The wastewater treatment works shall be located, regardless of the place of origin or ultimate destination of the wastewater, in the U.S.-Mexico border area (or near the U.S.-Mexico border area if the treatment works would remedy a transboundary environmental or health problem) and shall be planned, designed, and constructed in accordance with any applicable international agreement to which the United States is a party.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1994, $47,500,000 for fiscal year 1995, $100,000,000 for each of fiscal years 1996 through 2000, and $22,000,000 for fiscal year 2001.".

SEC. 3. DEFINITION OF U.S.-MEXICO BORDER AREA.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraph:

"(21) The term 'U.S.-Mexico border area' has the meaning the term has under Article 4 of the Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area (signed on August 14, 1983; commonly known as the 'La Paz Agreement').".

S. 2232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE TO UNITED STATES COLONIAS.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end the following new section:

"SEC. 220. ASSISTANCE TO UNITED STATES COLONIAS.

"(a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water, ground water, and water quality in the United States colonias areas, which are endangered and are being polluted by raw or partially treated sewage, in furtherance of the goals of this Act.

"(b) DEFINITON OF UNITED STATES COLONIA.—As used in this section, the term 'United States colonia'—

"(1) means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the area of the United States within 100 kilometers of the border between the United States and Mexico; and

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply or lack of adequate sewage systems; and

"(2) includes a community within a standard metropolitan statistical area that has a population exceeding 1,000,000, but does not include the entire standard metropolitan statistical area.

"(c) FINANCIAL ASSISTANCE TO UNITED STATES COLONIAS.—The Administrator is authorized to provide financial assistance to any State of the United States along the United States-Mexico border, or to any entity designated by the President, for the construction of treatment works to service United States colonias.

"(d) APPROVAL OF PLANS.—Any wastewater treatment works to serve United States colonias for which financial assistance is provided under this section shall be constructed in accordance with plans approved by the State under appropriate standards required by the Administrator. The plans shall include construction cost estimates and identify responsible parties and the appropriate allocation of costs associated with operating and maintaining the treatment works.

"(e) COST SHARE.—The Federal share of construction costs for grants under this section shall be 50 percent. The non-Federal share shall consist of State funds from State sources.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1994 and $50,000,000 for each of fiscal years 1995 through 1998.".

Mrs. HUTCHISON. Mr. President, I would like to voice my strong support for S. 2231 the United States-Mexico Border Water Pollution Control Act, introduced by Senator BINGAMAN today. I am pleased to be an original cosponsor of this legislation.

This bill addresses a reality that citizens who live near the Rio Grande River, which is the United States-Mexico border in Texas, face every day: pollution from raw or partially treated sewage. The awfulness of this situation is hard for most Americans to imagine. It ranges from mere inconvenience—a malodorous breeze coming from the Rio Grande—to serious health concerns associated with untreated sewage in

water supplies used for drinking water, irrigation, recreational, and industrial use.

This legislation recognizes the reality of cross-border pollution problems: Regardless of where the pollution originates, all the border area residents are endangered. Down along the Rio Grande, the river serves not so much to divide the nations but to link the communities inextricably through their mutual dependence on it. Inadequate sewage treatment facilities on the Mexican side of the border cause United States residents to suffer as much as the residents of Mexico. Therefore, our efforts to assist the 6 million U.S. residents on the border to live in a clean, pollution-free environment must reach across the border.

Congress recognized the reality of transborder pollution and the need for a bilateral solution when it authorized the Border Environment Cooperation Commission-NADBank Agreement in NAFTA implementing legislation. This agreement is intended to make wastewater treatment facility financing available where it is needed—in both the United States and Mexico. Under the BECC-NADBank Agreement, about $8 billion—from United States and Mexico public and private financing sources—will be available for United States-Mexico border environmental infrastructure financing over the next 10 years. The Border Environment Cooperation Commission will help find financing for needed wastewater treatment projects along the Rio Grande, using Federal EPA grants for initial project assistance, and for projects which cannot be financed by the NADBank or in the private market.

The United States-Mexico Border Pollution Control Act introduced today jumpstarts the new BECC-NADBank Agreement. The legislation provides the authorization for the EPA grants that will assist the BECC in coordinating and leveraging wastewater treatment facility financing on both sides of the border.

Specifically, this bill amends the Clean Water Act to provide authorization for the construction of international wastewater treatment facilities in the vicinity of the United States-Mexico border.

This legislation authorizes the appropriation of $20 million for fiscal year 1994, $47.5 million for fiscal year 1995, and $100 million for each of fiscal years 1996 through 2000, and $22 million for fiscal year 2001. Funding for these grants is paid for from the existing Clean Water Act hardship account.

The funding authorized in this legislation will assist with planning, design, and construction of wastewater facilities, which may treat wastewater without regard to its origin or destination. These grants may be provided to the Border Environment Cooperation Commission, Federal, State, and local entities, and the International Boundary and Water Commission, the United States and Mexico.

I support this legislation and will actively work for its enactment. I would like to point out that I am not a cosponsor of the second piece of legislation Senator BINGAMAN has introduced, The U.S. Colonias Water Pollution Control Act. I support the intent of Senator BINGAMAN's colonias legislation introduced today and will work closely with him and the administration to enact authorization for colonias grant funding as soon as possible. However, I have not cosponsored this legislation because it contains a one for one State matching requirement that I believe is counter-productive to the objectives of the legislation.

In closing, I comment Senator BINGAMAN for his unwavering interest in helping to improve the lives of border residents, and I look forward to working with him and the other cosponsors of this legislation to enact legislation that accomplishes that goal.

By Mr. BAUCUS (by request):

S. 2233. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

WATER RESOURCES DEVELOPMENT ACT OF 1994

• Mr. BAUCUS. Madam President, today I introduce at the request of the Assistant Secretary of the Army for Civil Works the Water Resources Development Act of 1994. This bill is the biannual reauthorization of ongoing and new water projects to be built and maintained by the Army Corps of Engineers in their civil works program. This legislation is critical to the orderly execution of the Army's civil works program.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to the printed in the RECORD, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1994."

SEC. 2. TABLE OF CONTENTS.

The table of contents for the Act is as follows—

SEC. 3. DEFINITIONS.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 4. PROJECT AUTHORIZATIONS

[Reserved.]

SEC. 4. PROJECT MODIFICATIONS.

[Reserved.]

SEC. 5. COST-SHARING OF ENVIRONMENTAL PROJECTS.

Section 103(c) of the Water Resources Development Act of 1986 [100 Stat. 4085] is amended by adding the following new subsection:

"(7) environmental protection and restoration: 25 percent.".

SEC. 6. RECOVERY OF COSTS FOR CLEAN UP OF HAZARDOUS OR TOXIC SUBSTANCES.

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the Army Civil Works Program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

SEC. 7. COLLABORATIVE RESEARCH AND DEVELOPMENT.

Section 7 of the Water Resources Development Act of 1988 [102 Stat. 4022] is amended by—

(1) redesignating subsections (b), (c) and (d) as paragraphs (1), (2) and (3);

(2) deleting subsection (e); and,

(3) adding the following new subsection:

"(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may provide appropriate

protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such information or the last day of the 2-year period beginning on the date of such determination. Any information covered by this subsection which becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under 15 U.S.C. 3710a(c)(7)(B) as if such information had been developed under a cooperative research and development agreement".

SEC. 8. NATIONAL INVENTORY OF DAMS.

Section 13 of Public Law 92-367, 33 U.S.C. 467*l*, is amended by striking the second sentence in its entirety and replacing it with the following:

"There is authorized to be appropriated up to $500,000 each fiscal year for the purpose of carrying out this section.".

SEC. 9. HYDROELECTRIC POWER PROJECT UPRATING.

(a) In accomplishing the maintenance, rehabilitation, and modernization of hydroelectric power generating facilities at water resources projects under the jurisdiction of the Department of the Army, the Secretary is authorized to increase the efficiency of energy production and the capacity of these facilities if, after consulting with other appropriate Federal and State agencies, the Secretary determines that such uprating—

(1) is economically justified and financially feasible;

(2) will not result in significant adverse effects on the other purposes for which the project is authorized;

(3) will not result in significant adverse environmental impacts; and,

(4) will not involve major structural or operation changes in the project.

(b) This section does not affect the authority of the Secretary and the Administrator of the Bonneville Power Administration under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d-1).

SEC. 10. ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE.

To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports which may lead to work under existing civil works authorities or to recommendations for authorizations. There is authorized to be appropriated up to $3,000,000 each fiscal year for the purpose of carrying out this section. The Secretary may also accept and expend additional funds from other Federal agencies, States, or non-Federal entities for purposes of carrying out this section.

SEC. 11. FEDERAL LUMP-SUM PAYMENTS FOR FEDERAL OPERATION AND MAINTENANCE COSTS.

(a) At a water resources project where the non-Federal interest is responsible for performing the operation, maintenance, replacement, and rehabilitation of the project and the Federal Government is responsible for paying a portion of the operation, maintenance, replacement, and rehabilitation costs, the Secretary may provide, under terms and conditions acceptable to the Secretary, a payment of the estimated total Federal share of such costs to the non-Federal interest after completion of construction of the project or a separable element thereof.

(b) The amount to be paid shall be equal to the present value of the Federal payments over the life of the project, as estimated by the Government, and shall be computed using an interest rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States with maturities comparable to the remaining life of the project.

(c) The Secretary may make a payment under this section only if the non-Federal interest has entered into a binding agreement with the Secretary to perform the operation, maintenance, replacement, and rehabilitation of the project or separable element. The agreement must be in accordance with the requirements of section 221 of the Flood Control Act of 1970 [84 Stat. 1818], and must contain provisions specifying the terms and conditions under which a payment may be made under this section and the rights of, and remedies available to, the Federal Government to recover all or a portion of a payment made under this section in the event the non-Federal interest suspends or terminates its performance of operation, maintenance, replacement, and rehabilitation of the project or separable element, or fails to perform such activities in a manner satisfactory to the Secretary.

(d) Except as provided in subsection (c), a payment provided to the non-Federal interest under this section shall relieve the Government of any future obligations for paying any of the operation, maintenance, replacement, and rehabilitation costs for the project or separable element.

SEC. 12. COST-SHARING FOR REMOVAL OF EXISTING PROJECT FEATURES.

After the date of enactment of this Act, any proposal submitted to the Congress by the Secretary for modification of an existing authorized water resources development project by removal of one or more of the project features which would significantly and adversely impact the authorized project purposes or outputs shall include the recommendation that the non-Federal sponsor shall bear 50 percent of the cost of any such modification, including the costs of acquiring any additional interests in lands which become necessary for accomplishing the modification.

SEC. 13. TECHNICAL ADVISORY COMMITTEE.

The Technical Advisory Committee established pursuant to section 310(a) of Pub. L. 101-640 shall no longer exist after the date of enactment of this Act.

SEC. 14. TECHNICAL CORRECTIONS.

(a) Section 203(b) of the Water Resources Development Act of 1992 [106 Stat. 4826] is amended by striking out "(8662)" and inserting in lieu thereof "(8862)".

(b) Section 225(c) of the Water Resources Development Act of 1992 [106 Stat. 4838] is amended by striking out "(8662)" in the second sentence and inserting in lieu thereof "(8862)".

SEC. 15. PROJECT DEAUTHORIZATIONS.

(a) Section 1001 of the Water Resources Development Act of 1986 as amended (33 U.S.C. 579a) is further amended by—

(1) striking "10" where it appears in the first sentence of paragraph (2) of subsection (b) and replacing it with "5";

(2) striking the word "Before" at the beginning of the second sentence of paragraph (2) of subsection (b) and replacing it with the words "Upon official"; and,

(3) inserting the words "planning, designing, or" immediately before the word "construction" in the last sentence of paragraph (2) of subsection (b).

(b) Section 52(a) of the Water Resources Development Act of 1988 [102 Stat. 4044] is repealed.

SEC. 16. CONTRACT GOALS FOR SMALL DISADVANTAGED BUSINESS CONCERNS AND HISTORICALLY BLACK COLLEGES AND UNIVERSITIES OR MINORITY INSTITUTIONS.

(a) GOAL.—Except as provided in subsection (c), the Secretary shall establish a goal of 5 percent of the total amount of civil works funds obligated for contracts and subcontracts entered into by the Department of the Army for fiscal years 1994 through 2000 for award to small business concerns owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations under that section), the majority of the earnings of which directly accrue to such individuals, and to historically Black colleges and universities or minority institutions (as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058)).

(b) COMPETITIVE PROCEDURE.—To the extent practicable and when necessary to facilitate achievement of the 5 percent goal in subsection (a)—

(1) the Secretary is authorized to enter into contracts using less than full and open competitive procedures, but shall pay a price not exceeding the fair market cost by more than 10 percent in payment per contract to contractors or subcontractors of contracts described in subsection (a).

(2) the Secretary shall maximize the number of small disadvantaged business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(c) EXCEPTION.—The Secretary shall adjust the percentage specified in subsection (b)(1) of this section for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage.

(d) NONAPPLICABILITY.—Subsection (a) does not apply if—

(1) the Secretary determines that the existence of a national emergency requires otherwise; and,

(2) the Secretary notifies the Congress of such determination and the reasons therefor.

SEC. 17. COST-SHARING FOR DAM SAFETY WORK.

Section 1203(a)(1) of the Water Resources Development Act of 1986 is amended by inserting the following language immediately after the first sentence:

"Where cost sharing was not based on a cost allocation, 15% of the modification costs shall be assigned among project purposes in the same manner as costs were originally assigned, as determined by the Secretary.".

SEC. 18. REVOCATION OF SECTION 211, RIVER AND HARBOR ACT OF 1950.

Section 211 of the River and Harbor Act of 1950, Public Law 516, 81st Congress, is hereby repealed.

SEC. 19. RESEARCH AND DEVELOPMENT IN SUPPORT OF ARMY CIVIL WORKS PROGRAM.

(a) In carrying out research and development in support of the Civil Works program

of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and non-profit organizations.

(b) With respect to contracts for research and development, the Secretary may include requirements that have potential commercial application and may also use such potential application as an evaluation factor where appropriate.

SEC. 20. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

The Secretary may engage in activities in support of other Federal agencies or international organizations on problems of national significance to the United States. The Secretary may engage in activities in support of international organizations only after consulting with the Department of State. The Secretary may apply the technical and managerial expertise of the Army Corps of Engineers to domestic and international problems related to water resources, infrastructure development and environmental protection. There is authorized to be appropriated up to $3,000,000 each fiscal year for the purpose of carrying out this section. The Secretary may also accept and expend additional funds from other Federal agencies or international organizations for purposes of carrying out this section.

SEC. 21. EXPANSION OF SECTION 1135 PROGRAM.

Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) is amended by—

(1) striking the period at the end of subsection (a) and inserting the following:
"and to determine if the operation of such projects has contributed to the degradation of the quality of the environment.";

(2) striking the last two sentences of subsection (b); and,

(3) redesignating subsections (c), (d), and (e) as (e), (f), and (g) and inserting the following new subsections:

"(c) If the Secretary determines that operation of a water resources project has contributed to the degradation of the quality of the environment, the Secretary may also undertake measures for restoration of environmental quality, provided such measures are feasible and consistent with the authorized project purposes."

"(d) The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsections (b) or (c) of this section shall be 25 percent. No more than $5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.".

SEC. 22. REGULATORY PROGRAM FUND.

(a) There is hereby established in the Treasury of the United States the "Army Civil Works Regulatory Program Fund" (hereafter referred to as the "Regulatory Program Fund") into which shall be deposited fees collected by the Secretary of the Army pursuant to paragraph (b) of this section. Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States as well as wetlands.

(b) REGULATORY FEES.—(1) To the extent provided for in appropriation Acts, the Secretary of the Army shall establish and collect fees for the evaluation of commercial permit applications; for the recovery of costs associated with the preparation of Environmental Impact Statements required by the National Environmental Policy Act of 1969; and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. Amounts collected pursuant to this paragraph shall be deposited into the Regulatory Program Fund established by paragraph (a) of this section.

(2) The fees described in paragraph (1) of this subsection shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts as provided for in appropriation Acts.

DEPARTMENT OF THE ARMY,
Washington, DC, April 29, 1994.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill entitled the "Water Resources Development Act of 1994." Accompanying the bill is draft report language.

The proposals included in the bill constitute the Department of the Army's Civil Works Legislative Program for the Second Session of the 103rd Congress. The items in the program are being submitted in the form of a Water Resources Development Act.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no object to the presentation of this proposal for consideration by the Congress and that its enactment would be in accord with the program of the President.

PURPOSE OF THE LEGISLATION

The legislation preserves and strengthens the critical cost-sharing reforms established in the Water Resources Development Act of 1986. Its purpose is to continue the biennial cycle for water resources authorizations, thereby serving the public's need for navigation, flood control and flood plain management, and storm damage reduction. It will also benefit the Nation's economic growth and enhance environmental protection.

The proposed water resources development bill contains a number of significant provisions which are important to the Civil Works program of the Department of the Army and which also reflect the Administration's goal of reinventing Government. For example the provision on regulatory fees is a part of Vice President Gore's national performance review.

All of the provisions are intended to improve the administration of the Army Civil Works program to allow for more efficient and effective utilization of available resources and to enhance mission accomplishment. Many of the provisions seek to eliminate unnecessary legislative requirements and to revise outdated legislation. For example, included is a provision which would eliminate the legislated requirement to impanel a board of advisors on matters pertaining to water management at Corps reservoirs. We believe this board is not needed for execution of the agency's water control mission, and by eliminating the board we would do away with the requirement to commit unnecessary funding or manpower. There is also a provision to amend the project deauthorization laws so as to streamline the process, thereby resulting in substantial cost savings to the Federal Government.

ENVIRONMENTAL AND CIVIL RIGHTS IMPACTS

These proposals will have no significant environmental or civil rights impacts.

Sincerely,

JOHN H. ZIRSCHKY,
Acting Assistant Secretary of the Army (Civil Works)●

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. PRYOR, Mr. BUMPERS, Mr. DURENBERGER, Mr. SASSER, Ms. MOSELEY-BRAUN, Mr. SIMON, and Mr. FEINGOLD):

S. 2234. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the Commission established under that act; to the Committee on Energy and Natural Resources.

MISSISSIPPI RIVER CORRIDOR STUDY COMMISSION ACT AMENDMENT ACT OF 1994

● Mr. BREAUX. Mr. President, I introduce legislation for myself and Senators JOHNSTON, PRYOR, BUMPERS, DURENBERGER, SASSER, MOSELEY-BRAUN, SIMON, and FEINGOLD, to amend the Mississippi River Corridor Study Commission Act of 1989 in order to extend the life of the Commission for a period of 2 years.

The Heritage Corridor Study Commission was established in 1990 to study the resources of the Mississippi River Valley and make recommendations to Congress on the boundaries of the proposed Mississippi River National Heritage Corridor stretching from the headwaters to the gulf. The Commission was authorized for a period of 3 years from the date of their first meeting which occurred in June 1991.

Since that time, the Commission has been working in cooperation with Federal, State and local units of Government to gather inventory data, develop boundaries and make recommendations to enhance the resources of the river valley. However, limited appropriations, the size of the study area—the largest heritage corridor in the United States—and the Commission's late start will prevent the Commission from completing the final study by the end of this month, when the authorization for the Commission is scheduled to expire.

As required by the original act, an interim heritage corridor study report is required to be submitted and was submitted to Congress last fall, which outlines the progress made to date. The interim study highlights the work remaining to complete the study, which includes finalizing a description of the corridor and its resources, proposing boundaries for the National Heritage Corridor, and conducting a public meeting in each of the 10 river States. A final study is required to be produced by June 1996.

While the original legislation—Public Law 101-398—authorized a total of $1.5 million for the Corridor Study Commission to complete its work, the

Commission has received $499,000, or one-third of the total amount authorized. This legislation, by extending the authorization, would give the Commission the time and resources needed to complete this important project.

Mr. President, the work of the Mississippi River National Heritage Corridor Study Commission holds great promise for promoting the historic, cultural, and economic resources of our 10 Mississippi River States. The final phase of this important project is at hand and the Commission must be allowed the time and resources it needs to prepare its final report to Congress, as required by the original act.

Mr. President, this legislation would extend the life of the Commission for 2 years so that its final report will be submitted to Congress in June 1996. I urge the Senate to act on this important issue as soon as possible so that the Commission can continue its work without any delay.●

By Mr. WELLSTONE:

S. 2235. A bill to authorize the establishment of an Accredited Lenders Program for qualified State or local development companies under the Small Business Investment Act of 1958 and an Accredited Loan Packagers Pilot Program for loan packagers under the Small Business Act; to the Committee on Small Business.

SMALL BUSINESS ACCREDITED LENDERS AND PACKAGERS ACT

● Mr. WELLSTONE. Mr. President, today I am introducing a bill to authorize the establishment of an Accredited Lenders Program [ALP] for qualified State or local development companies under the Small Business Investment Act of 1958 and an Accredited Loan Packagers Pilot Program for loan packagers under the Small Business Act.

As chairman of the Senate Small Business Subcommittee on Rural Economy and Family Farms, I learned about the importance of these programs from Terry Stone, the executive director of the Region 9 Development Commission. It is as a result of his testimony last year before my subcommittee that I am introducing this legislation today.

Mr. President, this bill seeks to make a significant improvement in the operation of the Small Business Administration's 504 and 7(a) loan guarantee programs, especially in rural areas. The bill would build on the efforts of the current Administrator, Erskine Bowles, to improve SBA loan programs by streamlining their service to the ultimate customer—small businesses. Specifically, the bill would authorize SBA district offices to provide expedited processing of applications for 504 and 7(a) guaranteed loans in certain cases.

The bill would establish a permanent Accredited Lenders Program within SBA's 504 Loan Guarantee Program. And it would further create a new pilot program, called the Accredited Packagers Pilot Program, within SBA's 7(a) Program. The concept in each case is modeled after the existing Certified Lender program in SBA's 7(a) Program.

Small businesses are currently responsible for the largest growth in job creation in the United States and their principal problem is access to credit. The 504 and 7(a) programs are the two key credit programs run by the Small Business Administration. In the last few years these programs have experienced a dramatic increase in demand which has placed pressure on the SBA and its credit programs.

This bill will help insure that credit can be delivered as quickly as possible to small businesses which are creating new jobs, especially in rural areas, without placing taxpayer money at greater risk.

THE ACCREDITED LENDERS PROGRAM

The Accredited Lenders Program would authorize SBA to expand and make permanent an SBA pilot program which is already in operation. The ALP program would allow the SBA to rely on the credit analysis performed by qualifying SBA 504 Certified Development Companies [CDC's] in order to complete documentation for and guarantee loans quickly, usually within 5 working days. Based on the proven lending record of an accredited CDC, SBA could process the loans without conducting its own credit analysis. Expedited turnaround would be accomplished by eliminating duplication of paperwork.

This program is currently operating as a pilot for approximately 25 community development corporations that make 504 loans. This is a proven program that should be expanded. My bill will turn this ALP from a pilot into a permanent authorization, expanded to cover the entire country.

THE ACCREDITED LOAN PACKAGERS PILOT PROGRAM

The second component of the bill would be to authorize the creation of an Accredited Loan Packagers Pilot Program to provide loan packaging service to rural small businesses. It would target a pilot program to qualified rural packagers of 7(a) loans in areas where there is a lack of SBA certified or preferred lenders. The provision would allow SBA to provide expedited processing, usually within 5 working days, in chosen locations for loan applicants whose applications have been packaged by development organizations with a proven record of success. This pilot program would authorize the SBA to provide pilot programs in areas of the country that are currently underserved or that have no providers—rural America.

Both programs call for expedited processing of loans. Under the existing ALP Pilot Program and under SBA's 7(a) Program the SBA relies on the credit analyses of others and is therefore able to process loans in an expedited fashion in 5 working days. In fact, the SBA's standard operating procedure for the ALP Pilot Program actually states that the "* * * SBA should be able to process a 504 loan within 5 business days." The intent of this legislation is that the SBA similarly expedite the processing of loans under the new ALP program and the Accredited Loan Packagers Pilot Program within 5 working days by eliminating the need for a duplicative credit analysis.

I urge my colleagues to join me in supporting this important legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCREDITED LENDERS PROGRAM.

Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by inserting after section 504 the following new section:

"SEC. 504A. ACCREDITED LENDERS PROGRAM.

"(a) IN GENERAL.—The Administration shall establish an Accredited Lenders Program for qualified State or local development companies that meet the requirements of subsection (b).

"(b) DESIGNATION OF ACCREDITED LENDERS.—The Administration shall designate a qualified State or local development company as an accredited lender if such company—

"(1) demonstrates adequate knowledge of applicable laws and regulations concerning the guaranteed loan program under section 504;

"(2) demonstrates proficiency in meeting the requirements of such guaranteed loan program; and

"(3) meets such other requirements as the Administration may prescribe by regulation.

"(c) EXPEDITED PROCESSING.—The Administration may expedite the processing of any loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—The designation of a qualified State or local development company as an accredited lender shall be suspended or revoked if the Administration determines that—

"(1) the development company is not adhering to the Administration's rules and regulations or is violating any other applicable provision of law; or

"(2) the loss experience of the development company is excessive as compared to other lenders;

but such suspension or revocation shall not affect any outstanding loan guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).

"(f) REGULATIONS.—The Administration shall promulgate such regulations as may be necessary to carry out this section.".

SEC. 2. ACCREDITED LOAN PACKAGERS PILOT PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(22) ACCREDITED LOAN PACKAGERS PILOT PROGRAM.—

"(A) IN GENERAL.—The Administration shall establish an Accredited Loan Packagers Pilot Program (hereafter in this paragraph referred to as the 'Program') for loan packagers, which shall be administered in accordance with subparagraphs (B) through (G).

"(B) DESIGNATION OF ACCREDITED LOAN PACKAGERS.—

"(i) QUALIFICATIONS.—Subject to the limitation contained in clause (ii), the Administration may designate a loan packager as an accredited loan packager if such loan packager—

"(I) is located in a rural area in which, in the determination of the Administration, there is a severe shortage or an absence of lenders that have been designated as—

"(aa) certified lenders under the Certified Lenders Program authorized by paragraph (19); or

"(bb) preferred lenders under the Preferred Lenders Program authorized by section 5(b)(7);

"(II) demonstrates adequate knowledge of applicable laws and regulations concerning guaranteed loan programs under this subsection;

"(III) demonstrates proficiency in meeting the requirements of such guaranteed loan programs; and

"(IV) meet such other requirements as the Administration may prescribe by regulation.

"(ii) TOTAL NUMBER.—In carrying out the Program, the Administration shall designate not less than 10 and not more than 15 loan packagers as accredited loan packagers.

"(C) EXPEDITED PROCESSING.—During the 3-year period described in subparagraph (G), the Administration may expedite the processing of any loan application or servicing action prepared by a loan packager that has been designated as an accredited loan packager in accordance with subparagraph (B).

"(D) SUSPENSION OR REVOCATION OF DESIGNATION.—The designation of a loan packager as an accredited loan packager shall be suspended or revoked if the Administration determines that—

"(i) the loan packager is not adhering to the Administration's rules and regulations or is violating any other applicable provision of law; or

"(ii) the loss experience of the loan packager is excessive as compared to other loan packagers;

but such suspension or revocation shall not affect any outstanding loan guarantee.

"(E) DEFINITION.—For purposes of this paragraph, the term 'loan packager' means any—

"(i) qualified State or local development company, as such term is defined in section 503(e) of the Small Business Investment Act of 1958; or

"(ii) other regional or local development organization selected by the Administration.

"(F) REGULATIONS.—The Administration shall promulgate such regulations as may be necessary to carry out this paragraph.

"(G) SUNSET.—The Program shall terminate 3 years after the date of enactment of this paragraph.".•

By Mr. GRAHAM:

S. 2237. A bill to amend the Immigration and Nationality Act to strengthen the criminal offenses and penalties for the smuggling of aliens; to the Committee on the Judiciary.

ALIEN SMUGGLING ACT OF 1994

• Mr. GRAHAM. Mr. President, I introduce legislation to address the growing problem of alien smuggling. In the last several years, we have seen an unprecedented rise in the number of aliens being smuggled into the United States. Increasingly, newspapers and television news programs relate horror stories regarding the shipboard conditions experienced by these aliens. Too often they are smuggled aboard overcrowded-unseaworthy vessels, in deplorable, inhumane, and unsanitary conditions.

The legislation I am proposing today would increase the current penalty for alien smuggling from 5 to 10 years. We need to send a message to those who seek to profit from transporting aliens, without regard for human safety or lives.

A recent incident off the coast of south Florida underscores the potential for tragedy in smuggling aliens, and the need to increase the penalty for smuggling. On March 28, 1994, a smuggling ring operating out of the Bahamas arranged for the passage of 10 people on a 19-foot boat. The boat, clearly designed to safely transport a much lesser load, encountered severe weather conditions. One day later, the U.S. Coast Guard discovered the craft overturned. Clinging to its side were seven people. The three other passengers, including a 16-month old baby, were lost in the water. The baby was later found dead.

The captain of this boat has since been tried, and was sentenced to only 41 months in jail for three counts of alien smuggling and for involuntary manslaughter. The current law carries a penalty of 5 years for alien smuggling. Yet, had this smuggler been transporting drugs, he would have been sentenced to at least a mandatory 10 years.

It is time to bring the severity of the punishment in line with the seriousness of the crime, creating a strong disincentive for alien smugglers. Until we do so, smugglers will continue to pursue their trade and continue to jeopardize the health and lives of those so desperate to reach our shores.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

"(A) knowing that a person is an alien—

"(i) brings to or attempts to bring to the United States, in any manner whatsoever or at any place whatsoever, such person (other than a person who on has received prior official authorization to come to, enter, or reside in the United States), knowing or in reckless disregard of the fact that such coming to or entry is or will be in violation of law, or

"(ii) brings to or attempts to bring to the United States, in any manner whatsoever, such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien'".

(b) ENHANCED PENALTY FOR SMUGGLING.—Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by striking "shall be fined" and all that follows and inserting the following:

"shall—

"(i) in the case of a violation of subparagraph (A)(i), be fined in accordance with such title, or imprisoned not more than ten years, or both, or

"(ii) in the case of any violation of subparagraph (A)(ii), (B), (C), or (D), be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both,

for each alien in respect to whom such violation occurs.".

(c) REPEAT OFFENSES.—Section 274(a)(2)(B) of such Act is amended by inserting "(or, in the case of an offense described in clause (ii), ten years)" after "five years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses occurring on or after the date of enactment of this Act.•

By Mr. KENNEDY (for himself, Mr. CHAFEE, Mr. AKAKA, Mr. JEFFORDS, Mr. BINGAMAN, Mr. PACKWOOD, Mrs. BOXER, Mr. BRADLEY, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 2238. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

EMPLOYMENT NON-DISCRIMINATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to introduce today the Employment Non-Discrimination Act of 1994.

From the beginning, civil rights has been the unfinished business of America—and it still is. In the past 30 years, America has made significant progress in removing the burden of bigotry from our land. We have had an ongoing peaceful revolution of change, and that change and its accomplishments are a tribute to our democracy and to the remarkable resilience of this Nation's founding principles.

Current Federal law rightly prohibits job discrimination on the basis of race, gender, religion, national origin, age, and disability. Establishing these essential protections was not easy or quick. But they have stood the test of time—and they have made us a better and a stronger nation.

Today, we move forward again by seeking to extend this protection to sexual orientation.

So I am proud to stand again with individuals—such as Coretta Scott King

and Justin Dart—and organizations whose tireless commitment to freedom, justice, and opportunity for all has guided our national journey. In large part, we are here today, and America is America today, because of them.

We have been here before—and our work goes on.

The Employment Non-Discrimination Act is a great endeavor. It is another significant step on freedom's journey—another milestone in the civil rights march of our time.

The act parallels protections against job discrimination already provided under title VII of the Civil Rights Act. The bill prohibits employers, employment agencies, and labor unions from using an individual's sexual orientation as the basis for employment decisions, such as hiring, firing, promotion, or compensation. This prohibition on discrimination is familiar territory, and these well-established standards can be easily applied to sexual orientation.

The act is simple and straightforward. Its goal is to eliminate job discrimination against fellow Americans.

Under the act, no disparate impact claims would be permitted based on under-representation in the work force, and the religious exemption is broadly defined. In addition, the legislation makes clear that preferential treatment, including quotas, is prohibited, and benefits for domestic partners are not required. Finally, the act does not apply to members of the Armed Forces.

This bill is not about granting special rights—it is about righting senseless wrongs.

What it requires is simple justice for gay men and lesbians who deserve to be judged in their job settings—like all other Americans—by their ability to do the work.

Today, job discrimination on the basis of sexual orientation is too often a fact of life. From corporate suites to plant floors, qualified employees live in fear of losing their livelihood for reasons that have nothing to do with their skills or their performance. Yet there is no Federal prohibition on such discrimination.

This bill is not about statistics. It is about real Americans whose lives and livelihoods are being shattered by prejudice.

This bill is for the postal worker in Michigan who was verbally harassed and then beaten unconscious by his coworkers for being gay. He reported continued harassment to his superiors—but they did nothing. In a subsequent law suit, the court rejected his claim because discrimination based on sexual orientation is not covered under Federal law.

This bill is for a cook from Georgia who was fired despite a solid 3-year perfect performance record, after a nation-wide restaurant chain adopted a blanket policy excluding employees whose sexual orientation did not demonstrate normal heterosexual values. Her separation notice read: "This employee is being terminated due to violation of company policy. The employee is gay."

It doesn't get any clearer than that.

Job discrimination is not only un-American—it is unprofitable and counterproductive. It excludes qualified individuals, lowers work force productivity, and eventually hurts us all. If we are to compete effectively in a global economy, we have to use all our available talent and create a workplace environment where everyone can excel.

This reality had been recognized by many Fortune 500 companies, including General Electric, AT&T, and the Bank of Boston. They understand that ending discrimination based on sexual orientation is good for business and good for the country.

In the absence of a Federal remedy, many State and local governments have acted responsibly to prohibit job discrimination based on sexual orientation. Over a hundred mayors and Governors, Republicans and Democrats, have signed laws and issued orders protecting gay and lesbian employees.

Based on this successful State and local experience, it is time for the Federal Government to secure this fundamental promise of freedom by ensuring fairness throughout the workforce.

We know we cannot change attitudes overnight. But if we have learned anything from the burdens and the achievements of American history, it is that changes in the law are an essential step in breaking down barriers, exposing prejudice, and building a better tomorrow.

Today's action brings us one step closer to the ideals of liberty. I am pleased to be introducing the Employment Non-Discrimination Act of 1994 in the Senate along with Senator CHAFEE—and more than 30 Senators committed to this effort. And I am also grateful to Representatives FRANK, STUDDS, EDWARDS, and MORELLA for their leadership in the House.

The bipartisan coalition for civil rights in Congress has been a powerful force for justice and opportunity.

Our case is strong—our cause is just—and we intend to prevail.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employment Non-Discrimination Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) an individual's sexual orientation bears no relationship to the individual's ability to contribute fully to the economic and civic life of society;

(2) historically, American society has tended to isolate, stigmatize, and persecute gay men, lesbians, and bisexuals;

(3) one of the main areas in which gay men, lesbians, and bisexuals face discrimination is employment;

(4) employment discrimination on the basis of sexual orientation violates fundamental American values of equality and fairness;

(5) the continuing existence of employment discrimination on the basis of sexual orientation denies gay men, lesbians, and bisexuals equal opportunity in the workplace and affects interstate commerce;

(6) individuals who have experienced employment discrimination on the basis of sexual orientation often lack recourse under Federal law; and

(7) gay men, lesbians, and bisexuals have historically been excluded from full participation in the political process, comprise a discrete and insular minority, and have historically been subjected to purposeful unequal treatment based on characteristics not indicative of their ability to participate in or contribute to society.

(b) PURPOSES.—It is the purpose of this Act—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 3. DISCRIMINATION PROHIBITED.

A covered entity, in connection with employment or employment opportunities, shall not—

(1) subject an individual to different standards or treatment on the basis of sexual orientation;

(2) discriminate against an individual based on the sexual orientation of persons with whom such individual is believed to associate or to have associated; or

(3) otherwise discriminate against an individual on the basis of sexual orientation.

SEC. 4. BENEFITS.

This Act does not apply to the provision of employee benefits to an individual for the benefit of his or her partner.

SEC. 5. NO DISPARATE IMPACT.

The fact that an employment practice has a disparate impact, as the term "disparate impact" is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(k)), on the basis of sexual orientation does not establish a prima facie violation of this Act.

SEC. 6. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

SEC. 7. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall not apply to religious organizations.

(b) FOR-PROFIT ACTIVITIES.—This Act shall apply to a religious organization's for-profit

activities subject to taxation under section 511(a) of the Internal Revenue Code of 1986 as in effect on the date of the enactment of this Act.

SEC. 8. NON-APPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) For purposes of this Act, the term "employment or employment opportunities" does not apply to the relationship between the United States and members of the Armed Forces.

(2) As used in paragraph (1), the term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating special rights or preferences for veterans.

SEC. 9. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act—

(1) the Commission and the Librarian of Congress shall have the same powers, respectively, as the Commission and the Librarian of Congress have to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(2) the Attorney General of the United States shall have the same powers as the Attorney General has to administer and enforce such title; and

(3) the district courts of the United States shall have the same jurisdiction and powers as such courts have to enforce such title and section 309 of the Civil Rights Act of 1991 (2 U.S.C. 1209).

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim for a violation of this Act are as follows:

(1) For a violation alleged by an individual, other than an individual specified in paragraph (2) or (3), the procedures and remedies applicable to a claim brought by an individual for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall apply.

(2) For a violation alleged by an employee of the House of Representatives or of an instrumentality of the Congress, the procedures and remedies applicable to a claim by such employee for a violation of section 117 of the Civil Rights Act of 1991 (2 U.S.C. 60*l*) shall apply.

(3) For a violation alleged by an employee of the Senate, the procedures and remedies applicable to a claim by such employee for a violation of section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202) shall apply.

SEC. 10. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution of the United States from an action in a Federal court of competent jurisdiction for a violation of this Act. In an action against a State for a violation of this Act, remedies (including remedies at law and in equity) are available for the violation to the same extent as such remedies are available in an action against any public or private entity other than a State.

(b) LIABILITY OF THE UNITED STATES.—The United States shall be liable for all remedies under this Act to the same extent as a private person and shall be liable to the same extent as a nonpublic party for interest to compensate for delay in payment.

SEC. 11. ATTORNEYS' FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or the Commission, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee, including expert fees and other litigation expenses, and costs. The United States shall be liable for the foregoing the same as a private person.

SEC. 12. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this Act or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of or on account of his or her having exercised, enjoyed, assisted, or encouraged the exercise or enjoyment of, any right protected by this Act.

SEC. 13. POSTING NOTICES.

A covered entity shall post notices for employees, applicants for employment, and members describing the applicable provisions of this Act, in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

SEC. 14. REGULATIONS.

The Commission shall have the authority to issue regulations to carry out this Act.

SEC. 15. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 17. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act, and shall not apply to conduct occurring before such effective date.

SEC. 18. DEFINITIONS.

As used in this Act—

(1) the term "commerce" has the meaning given such term in section 701(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(g));

(2) the term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4);

(3) the term "covered entity" means an employer, employment agency, labor organization, joint labor-management committee, an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) applies, an employing authority of the House of Representatives, an employing office of the Senate, or an instrumentality of the Congress;

(4) the term "employee of the Senate" has the meaning given such term in section 301(c) of the Civil Rights Act of 1991 (2 U.S.C. 1201(c));

(5) the term "employer" has the meaning given such term in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(6) the term "employment agency" has the meaning given such term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c));

(7) the term "employment or employment opportunities" includes job application procedures, hiring, advancement, discharge, compensation, job training, or any other term, condition, or privilege of employment;

(8) the term "instrumentalities of the Congress" has the meaning given such term in section 117(b)(4) of the Civil Rights Act of 1991 (2 U.S.C. 60*l*(b)(4));

(9) the term "labor organization" has the meaning given such term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d));

(10) the term "person" has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a));

(11) the term "religious organization" means—

(A) a religious corporation, association, or society; or

(B) a college, school, university, or other educational institution, not otherwise a religious organization, if—

(i) it is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association, or society; or

(ii) its curriculum is directed toward the propagation of a particular religion;

(12) the term "sexual orientation" means lesbian, gay, bisexual, or heterosexual orientation, real or perceived, as manifested by identity, acts, statements, or associations; and

(13) the term "State" has the meaning given such term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

REMARKS BY CORETTA SCOTT KING AT THE PRESS CONFERENCE ON THE INTRODUCTION OF THE EMPLOYMENT NON-DISCRIMINATION ACT OF 1994

Thank you for your gracious introduction. And I want to thank all of the members of the press for joining us today for this important press conference on the Employment Non-Discrimination Act of 1994.

Senator CHAFFEE, Senator KENNEDY, Representatives EDWARDS, FRANK, STUDDS, and MORELLA, distinguished guests, members of the press, today I am proud to join in supporting this much-needed legislation, which would provide some long-overdue protection to American workers from the injustice of discrimination based on sexual orientation.

I support this legislation because lesbian and gay people are a permanent part of the American work force, who currently have no protection from the arbitrary abuse of their rights on the job. For too long, our Nation has tolerated the insidious form of discrimination against this group of Americans, who have worked as hard as any other group, paid their taxes like everyone else, and yet have been denied equal protection under the law.

By including victims of discrimination based on sexual orientation, this bill would do much to rectify this injustice in the workplaces of America. I am much encouraged that a recent newsweek opinion poll found that 74 percent of the respondents favored protecting gay and lesbian people from job discrimination, and I am proud to stand with this overwhelming majority of Americans who recognize the justice of this cause.

This bill would grant the same rights to victims of discrimination based on sexual orientation that are extended to victims or racial, gender, and religious discrimination and those who have been unfairly treated in the workplace because of their age, ethnicity, or disability. The bill provides no preferential treatment or special rights that have been denied these groups.

I support the Employment Non-discrimination Act of 1994 because I believe that freedom and justice cannot be parceled out in

pieces to suit political convenience. As my husband, Martin Luther King, Jr. said, "Injustice anywhere is a threat to justice everywhere." On another occasion he said, "I have worked too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible." Like Martin, I don't believe you can stand for freedom for one group of people and deny it to others.

So I see this bill as a step forward for freedom and human rights in our country and a logical extension of the Bill of Rights and the civil rights reforms of the 1950's and 60's.

The great promise of American democracy is that no group of people will be forced to suffer discrimination and injustice. I believe that this legislation will provide protection to a large group of working people, who have suffered persecution and discrimination for many years. To this endeavor, I pledge my wholehearted support.

REMARKS BY JUSTIN DART, FORMER CHAIRMAN OF THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES, PRESS CONFERENCE, THE EMPLOYMENT NON-DISCRIMINATION ACT 1994

This is a great day for democracy. Mr. Jefferson and Martin Luther King are smiling.

On behalf of my colleagues in the Disability Rights Movement, I congratulate all the sponsors and other supporters of the Employment Non-Discrimination Act of 1994.

I call on the Members of Congress to pass and the President to sign this historic bill. I call on all who love the American dream to support it.

It is a special privilege to be here today with great patriots of justice like Coretta Scott King, Pat Wright and many others.

Senator EDWARD KENNEDY is an authentic hero of the Civil and Disability Rights Movements.

Senator JOHN CHAFEE and Representatives CONNIE MORELLA and BARNEY FRANK have been consistent supporters of the rights of people with and without disabilities.

The Non-Discrimination Act of 1994 will be another landmark of justice in the great tradition of the Civil Rights Act of 1964, the age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991.

Why am I, a disability Rights Advocate, supporting this bill on sexual orientation?

Because what Martin Luther King said is profoundly true. "Injustice anywhere is a threat to justice everywhere." None of us are truly free until all of us are free.

Because eventually every family in the United States will have one or more members whose basic constitutional rights will be protected by this law. This is not a law for "them." This is a law for us. All of us.

Historically, there has been opposition to civil rights. There is the assertion that civil rights is a kind of bothersome burden that do-gooders impose on sound business and sound government. This is a dangerous fallacy.

Civil rights and free enterprise are two sides of the same solid gold cultural currency that has revolutionized the productivity and the quality of human life.

Our forefathers and mothers came to this country because we offered extraordinary legal guarantees of equal opportunity. They got rich and America got rich. Every time we expanded those civil rights guarantees to include another oppressed minority, Americans got richer, America became more democratic.

Civil rights puts the "free" in free enterprise. America is not rich in spite of civil rights. America is rich because of civil rights.

The Non-Discrimination Act of 1994 will produce profits that will reduce deficits and enrich every citizen in terms of money and of quality of life.

It's the right thing to do. We will keep the sacred pledge of liberty and justice for all.

Let us join together, Republicans, Democrats, just plain Americans, to support the passage of this great law, and then to implement it in every heart and mind and community in America. Together, we shall overcome.

• Mr. PACKWOOD. Mr. President, I am pleased to be an original cosponsor of the Employment Non-Discrimination Act of 1994, a bill to prohibit job discrimination based on sexual orientation. It is surely time to ensure that the rights of all Americans simply to earn a living are protected. The key issue in employment decisions should be: Can the person do the job? No characteristics such as race, gender, age, or sexual orientation should in and of themselves have a bearing on such a determination.

I am concerned over what I see as a growing intolerance in this country for people and groups with different ideas or ways of life. The danger to the liberties of all Americans is most threatened by those who want to compel conformity of thought and deed. Conversely, our liberties are most secured by a decent respect for diversity, particularly on those subjects upon which there is no consensus.

The genesis of all civil rights in our great country is the U.S. Constitution. This document prohibits the Federal Government from depriving any person of life, liberty, or property without due process of law. Our Constitution also forbids States from denying any person the equal protection of the laws. States are further obliged to protect the rights of persons equally, that is, without discrimination against any class of persons.

The Constitution gives Congress the power to enforce our civil rights by appropriate legislation. The first Civil Rights Act, passed in 1866, guaranteed to every U.S. citizen the same rights that white citizens have to inherit, purchase, lease, and sell property. A series of other laws in years following the Civil War made it clear that our nonwhite citizens were to enjoy the same rights as whites in other areas such as contracting and sitting on juries.

Twentieth-century civil rights laws reflect the growing recognition of Congress and the American people of the need for equal protection in the areas of voting, public accommodation, education, employment, housing, credit, and access to Federal programs. In addition to the protection of these substantive rights, Congress has acted to extend constitutional protection beyond race to religion, sex, handicap, national origin, age, and marital status. Our history reflects a dynamic process, expanding protection to ensure that all basic rights of all groups are safeguarded.

Consistent with this pattern of extending protection to all citizen's liberties, or those perceived as such, it is time to end discrimination in the workplace against gays and lesbians. Employment should be based solely on merit. This bill does not create any special rights; rather, it protects a right that everyone should enjoy—the right to be free of discrimination based on irrational prejudice on the job.

It should be noted that the Employment Non-Discrimination Act of 1994 prohibits any form of preferential treatment, including quotas, based on sexual orientation. Also, the legislation does not require an employer to provide benefits, such as insurance, for the same-sex partner of an employee. And finally, the act does not apply to the uniform military and thus does not affect the military ban on gay men and lesbians.

Mr. President, I wish this legislation were not necessary, but unfortunately it is. We must now take steps to protect the gains of the last 25 years in eliminating employment discrimination. I am proud and pleased to be a cosponsor of the Employment Non-Discrimination Act of 1994.•

• Mrs. FEINSTEIN. Mr. President, today's introduction of the Employment Non-Discrimination Act of 1994, which will prohibit employment discrimination on the basis of sexual orientation, has in a way, been a long journey for me.

Twenty-five years ago, I ran for my first elected office as a supervisor for the city and County of San Francisco. When I did so, I was told of the very real problem of job discrimination on the basis of sexual orientation, and the need for antidiscrimination legislation.

Well, I won that election, and when I did, one of the first pieces of legislation that I authored was an amendment, to San Francisco's Human Rights Ordinance, to prohibit employment discrimination on the basis of sex or sexual orientation. Frankly, the legislation languished in committee for some time. Eventually, as president of the board of supervisors, I called it out of committee, whereupon it passed with strong support. As far as I know, it was the first such legislation in any major jurisdiction in the country.

After that ordinance was adopted, and over the years that I served as a supervisor and mayor of San Francisco, I came to know many gay and lesbian people who excelled in their professions. Attorneys, physicians, educators, judges, journalists, airline pilots, elected officials, one of whom is now an assistant secretary in the administration, and business men and women in virtually every endeavor.

Many of these people broke new ground. And many excelled.

It is interesting that, on more than one occasion, various people remarked to me that they could not have accomplished in their hometowns, what they were able to accomplish professionally in San Francisco.

Well, some 20 years later, I'm pleased to report that no businesses went bankrupt as a result of that ordinance. No employers faced hardships. On the contrary, many companies found that the principle of hiring and promoting the best-qualified employees, based solely on merit, yielded the most productive work force.

That principle which saw its beginning as a groundbreaking ordinance in a relatively small west coast city will, today, be introduced into the U.S. Senate. Crossing this frontier carries a very special significance for me.

These are tough economic times for our country. And I believe that nobody should be denied opportunity especially during these hard times. And I also believe that our society should be denied nobody's contribution. Employment decisions should be based on qualifications, and ability, and merit. Not on race, creed, color, disability, sex, or sexual orientation.

I want to commend the distinguished senator from Massachusetts. Clearly, a great deal of thought has gone into the crafting of this bill. It is simple in its approach. It anticipates legitimate concerns and, I feel, addresses them.

Simply stated—this legislation prohibits employment discrimination on the basis of sexual orientation.

Basically, the legislation follows the approach used in the Americans with Disabilities Act, and provides for the same enforcement powers and remedies as provided for by title VII of the Civil Rights Act of 1964.

Let us be clear about what this legislation does not do. It does not create special rights or suggest quotas. On the contrary, the act specifically prohibits preferential treatment or quotas.

The act does not apply to members of the Armed Forces.

There is an exemption for religious organizations and educational institutions which are attached to a religious organization.

Like the Civil Rights Act of 1964, small employers with less than 15 employees are not covered by this act.

The act does not apply to employee benefits for an employee's partner.

Finally, there can be no disparate impact claim, requiring employers to justify a neutral hiring practice absent any specific evidence of discrimination.

This is well-crafted legislation whose time has come.

Throughout my public life, I have had a simple vision for society. It is one of many different people living together in harmony without fear of bias. Also, throughout my public life, gay men and lesbians have been among my employees, and served in my administration when I was mayor. I am proud to have seen them grow and move on to advance in their respective careers.

Our Constitution guarantees equal protection. The promise of our Nation is one of equality and freedom—of life, liberty, and the pursuit of happiness.

Our commitment to equality cannot be a passing one, nor can it be selective. For too long, in too many parts of our country, too many people have suffered the pain of employment discrimination, and have been held back. Opportunity has been denied. And often, along with that lost opportunity, we have lost the contributions of some of our society's most gifted individuals. For the most part, these are losses we will never know. But we can do something to bring those losses to an end. We can pass this legislation.

I believe that a people, when allowed to be free, will make its greatest contribution. That is the vision of America. That is the promise for all. That promise is embodied in this legislation.●

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S.J. Res. 203. A joint resolution designating July 12, 1994, as "Public Health Awareness Day"; to the Committee on the Judiciary.

PUBLIC HEALTH AWARENESS DAY

Mr. KENNEDY. Mr. President, 50 years ago next month, Congress enacted landmark legislation consolidating the various public health activities of the Federal Government into the U.S. Public Health Service. Today, it consists of the Office of the Assistant Secretary for Health, the Agency for Health Care Policy and Research, the Agency for Toxic Substances and Disease Registry, the Centers for Disease Control and Prevention, the Food and Drug Administration, the Health Resources and Service Administration, the Indian Health Service, the National Institutes of Health, and the Substance Abuse and Mental Health Services Administration.

Together, these agencies are on the front lines of a wide range of public health activities, helping to prevent unnecessary death and disability, protecting the public against dangerous products, improving access to health care, enhancing the quality of life for large numbers of our citizens, and greatly reducing disparities in the health status of the poor and minorities in our society.

The U.S. Public Health Service has achieved these successes by working in partnership with State and local governments and private organizations. Americans are living longer and healthier lives due in large part to these activities.

The accomplishments of the U.S. Public Health Service over the past 50 years are among our Nation's greatest modern achievements. It is fitting for Congress and for the Nation to pay tribute to this proud organization on this auspicious anniversary.

I urge prompt action on this joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 203

Whereas the modern United States Public Health Service was shaped by legislation passed by the Congress 50 years ago this month;

Whereas the Public Health Service has been at the vanguard of health: protecting the public from disease and epidemics and, in conjunction with the States, maintaining public health capacity;

Whereas the Public Health Service is a world leader in addressing the challenge of promoting and protecting health in America and worldwide;

Whereas the Public Health Service protects the safety and quality of foods, drugs, and medical devices for all Americans;

Whereas the Public Health Service provides emergency health services in response to America's natural disasters;

Whereas the Public Health Service is a world leader in health and medical research;

Whereas the Public Health Service is a world leader in the effort to immunize children and adults against preventable infectious diseases both in the United States and worldwide;

Whereas the Public Health Service is a world leader in the fight against AIDS and AIDS-related illnesses; and

Whereas the Public Health Service is comprised of 50,000 dedicated professionals: Now, therefore, be it

Resolved, That July 12, 1994, is designed as "Public Health Awareness Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate activities.

ADDITIONAL COSPONSORS

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1495

At the request of Mr. INOUYE, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1495, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1539

At the request of Mr. INOUYE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of

S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1908

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1908, a bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits.

S. 1941

At the request of Mr. BUMPERS, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1941, a bill to terminate the Milstar II Communications Satellite Program.

S. 2061

At the request of Mr. BUMPERS, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 2061, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2120

At the request of Mr. INOUYE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

SENATE JOINT RESOLUTION 157

At the request of Mr. SASSER, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Oklahoma [Mr. BOREN], the Senator from Indiana [Mr. COATS], the Senator from Illinois [Mr. SIMON], the Senator from Nevada [Mr. BRYAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Mexico [Mr. DOMENICI], the Senator from Mississippi [Mr. LOTT], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. REID], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate 1994 as "The Year of Gospel Music."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the names of the Senator from Indiana [Mr. COATS] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 232—RELATIVE TO THE HOUSTON ROCKETS

Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted the following resolution; which was considered and agreed to:

S. RES. 232

Whereas the Houston Rockets began the 1993–94 season with a 15–0 start, tying an NBA record;

Whereas the Rockets finished the 1993–94 season with a 58–24 record, second best in the NBA, and won the Midwest Division for the second consecutive year;

Whereas second-year coach Rudy Tomjanovich and his assistants helped transform the Rockets from a solid playoff team into the NBA's best;

Whereas Hakeem Olajuwon was named the NBA's most valuable player for the regular season, defensive player of the year, and most valuable player of the NBA Finals;

Whereas the Rockets won a hard-fought seven game series with the New York Knicks in which each game was decided by less than ten points;

Whereas the Rockets gave the City of Houston its first NBA Championship, a unique and special accomplishment in Houston sports history; Now therefore be it

Resolved, That the Senate congratulates the Houston Rockets for their outstanding heart, resolve, and determination in winning the 1994 National Basketball Association Championship.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

SPECTER (AND OTHERS) AMENDMENT NO. 1839

Mr. SPECTER (for himself, Mr. WOFFORD, and Mr. LAUTENBERG) proposed an amendment to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title XXVIII of the bill, insert the following:

SEC. 28. JUDICIAL REVIEW OF REQUIREMENTS FOR DISCLOSURE OF INFORMATION BY THE SECRETARY.

Section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(f) JUDICIAL REVIEW.—If the Secretary transmits recommendations to the Commission under subsection (c)(1), any person adversely affected thereby or any member of Congress may, upon a prima facie showing of not less than two documentary material acts of fraudulent concealment, bring an action in a district court of the United States for the review of the compliance of the applicable official or entity with the requirement that such official or entity make available to Congress, to the Commission, and to the Comptroller General all information used by or available to the Secretary to prepare the recommendations.

JOHNSTON (AND OTHERS) AMENDMENT NO. 1840

Mr. JOHNSTON (for himself, Mrs. FEINSTEIN, Mr. BREAUX, Mrs. BOXER, and Mr. KOHL) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, line 7, strike out "1949" and insert in lieu thereof the following: 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) AMOUNT FOR SHIPBUILDING AND CONVERSION.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) NATIONAL DEFENSE SEALIFT FUND.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

FEINGOLD (AND OTHERS) AMENDMENT NO. 1841

Mr. FEINGOLD (for himself, Mr. SIMON, Mr. HARKIN, Mr. BUMPERS, Mr. SASSER, and Mr. WELLSTONE) proposed and amendment to the bill S. 2182, supra; as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. CVN–76 AIRCRAFT CARRIER PROGRAM.

No contract (including a contract for advance procurement of long lead items) may be entered into for procurement of a CVN–76 aircraft carrier on or after the date of the enactment of this Act and before October 1, 1999. Any such contract (other than a contract for procurement of long lead items) that has been entered into before the date of the enactment of this Act shall be terminated.

MCCAIN AMENDMENT NO. 1842

Mr. MCCAIN proposed an amendment to the bill S. 2182, supra; as follows:

On page 223, beginning with line 14, strike out all through page 227, line 11, and insert in lieu thereof the following:

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IMMEDIATE TERMINATION.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) APPLICABILITY.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary of Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) PRESERVATION OF REQUIREMENTS.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note).

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100–133, 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

SMITH (AND OTHERS) AMENDMENTS NOS. 1843–1848

Mr. SMITH (for himself, Mr. KERRY, Mr. DOLE, Mr. CONRAD, Mr. WOFFORD, Mr. LOTT, Mr. GRASSLEY, Mr. HELMS, Mr. MCCAIN, Mr. THURMOND, Mr. KOHL, Mr. REID, and Mr. LIEBERMAN) proposed six amendments to the bill S. 2182, supra; as follows:

AMENDMENT NO. 1843

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location treatment or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purpose of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

AMENDMENT NO. 1844

In title X, insert the following new section:

SEC. . REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files and other materials pertaining to personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such document, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, filed more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after debate of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified from documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

AMENDMENT NO. 1845

In title X, insert the following new section:

SEC. . REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based primarily on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) RECOMMENDATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons; and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

AMENDMENT NO. 1846

In title X, insert the following new section:

SEC. . CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

AMENDMENT NO. 1847

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

AMENDMENT NO. 1848

In title X, insert the following new section:

SEC. . REPORT ON POW/MIA MATTER CONCERNING NORTH KOREA

(a) FINDINGS—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues related to United States personnel who became prisoners of war or missing in action during the Korean conflict.

KEMPTHORNE (AND OTHERS) AMENDMENT NO. 1849

Mr. KEMPTHORE (for himself, Mr. MCCAIN, Mr. SMITH, Mr. COATS, Mr. CRAIG, Mr. LOTT, and Mr. NICKLES) proposed an amendment to the bill S. 2182, supra; as follows:

On page 219, after line 19, insert the following:

(d) PURPOSES FOR WHICH FUNDS AVAILABLE.—Notwithstanding subsection (g) of section 403 of title 10, United States Code, as added by subsection (b)(1), funds appropriated pursuant to the authorization of appropriations in section 301(20) may not be expended for paying assessments for United Nations peacekeeping and peace enforcement operations (including any arrearages under such assessments). The funds so appropriated shall be credited, in equal amounts, to appropriations for the Army, Navy, Air Force, and Marine Corps for fiscal year 1995 for operation and maintenance in order to enhance training and readiness of the Armed Forces and to offset any expenditure of training funds for such fiscal year for incremental costs incurred by the United States for support of peacekeeping operations for such fiscal year.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, S. 1478, to revise the Federal Insecticide, Fungicide, and Rodenticide Act ensure that pesticide tolerances adequately safeguard the health of infants and children, and S. 2050, to revise the Federal Insecticide, Fungicide, and Rodenticide Act. The hearing will be held on Wednesday, June 29, 1994 at 9:30 a.m. in SR–332.

For further information, please contact Mary Dunbar at 224–5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 23, 1994, at 9 a.m., in open session, to receive testimony on the impact of lifting the U.N. Security Council arms embargo on the Government of Bosnia and Herzegovina.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, June 23, at 10 a.m. to hold a hearing on the Chemical Weapons Convention—Treaty Document 103–21.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized

to meet during the session of the Senate on Thursday, June 23, at 4:30 p.m. to hold a nomination hearing on Jeffrey Rush, Jr., to be inspector general, Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 23, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 23, 1994, at 10:30 a.m., to hold an oversight hearing on the operations of the Office of the Architect of the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NUNN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 23, 1994 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. NUNN. Mr. President, I ask unanimous consent that the subcommittee on water and power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 23, 1994, to receive testimony on the implementation of the Central Valley Project Improvement Act and the coordination of these actions with other Federal Protection and restoration efforts in the San Francisco/Sacramento-San Joaquin Delta.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TURKISH DEMOCRACY: ONE MORE STEP TOWARD THE ABYSS

• Mr. DECONCINI. Mr. President, I am compelled once again to voice my grave concerns over the state of affairs in Turkey. Were I not convinced that Turkey is one our Nation's most important allies, I would not express such frustration when the government contravenes its own constitution and international human rights commitments. Last Thursday, June 16, when Turkey's highest court banned the pro-Kurdish Democracy Party [DEP], and kicked 13 DEP members out of Parliament because of statements they made, my concern and frustration reached new heights.

The 13 duly elected members of Turkey's legislature have been removed from Parliament because of a party communique issued last year appealing for a peaceful solution to the Kurdish problem. Five deputies, who have been jailed since early March without being indicted, face the death penalty for speaking out for the rights of Turkey's Kurdish citizens. Six others have fled Turkey and, I am informed, will seek political asylum in Belgium. Two others face imminent arrest in Turkey. Mr. President, I have met with some of these individuals and others now in Turkish jails for simply expressing their views, and I am appalled. Mr. President, what kind of democracy finds its own legislators either in prison or fleeing arrest to seek political asylum?

A perhaps unintended consequence of the court decision relates to constitutional requirements that by-elections be held when 24 vacancies occur in the 450-seat Parliament. If the four Kurdish deputies who resigned from DEP before legal action was taken should leave Parliament, it would appear that elections would have to be held within 3 months. Mr. President, I want to make it clear from the outset, that should such elections take place, and it seems likely, our Government and the many non-governmental election monitors, should be prepared to send observers to ensure that international standards are met. Furthermore, in light of recent developments, the Helsinki Commission, of which I am chairman, will, in upcoming meetings of the Conference on Security and Cooperation in Europe [CSCE], press for official CSCE missions to be sent to Turkey to monitor the deteriorating rights situation.

Mr. President, what is most alarming about the deteriorating rights situation in Turkey is this increasingly frequent trend to criminalize free speech. Words and ideas, regardless of their content, are tolerated in democratic systems. As signatory to the Conference on Security and Cooperation in Europe [CSCE], the United Nations Universal Declaration on Human Rights and the International Covenant on Political and Civil Liberties, Turkey has obligated itself to protect all forms of nonviolent expression. The decision to remove 13 duly elected parliamentarians because of speeches they made or documents they sign is an affront to all democratic legislatures.

Mr. President, obviously no country, including our own, is immune from situations where human rights are jeopardized. Turkey's Kurdish issue has a long and complex history, which has unfortunately become increasingly clouded by violence. In the midst of a severe economic crisis, Turkey's government and military are spending over $7 billion a year to fight the PKK—yet the PKK continues to operate and draw followers. Regrettably the heavy-handed tactics of security forces, who have destroyed over 1,000 Kurdish villages in the past 18 months, alienate local Kurds and fuel sympathy and support for the radicals. Additionally, by criminalizing even moderate expressions of Kurdish discontent, the government stifles legitimate discourse within a democratic framework and denies its citizenry an outlet through which to legally articulate their frustration. And while no one denies Turkey's sovereign right to protect its citizenry from terrorism, this must not be pursued at the expense of other fundamental human rights.

Mr. President, in the interests of peace and regional stability, I appeal to Turkey's civilian and military leaders to reconsider increasingly intolerant and unproductive policies toward Turkey's Kurdish citizenry. There can be no hope of peace if voices on all sides are silenced and forced into more radical positions. Such policies raise serious questions about the ability of Turkish democracy to meet the pressing needs of a modern multiethnic society. Furthermore, Mr. President, despite a confluence of foreign policy interests with our Government on numerous issues, Turkey's deteriorating human rights situation makes it increasingly difficult to support a leading role for Turkey in regional political undertakings.

In conclusion, Mr. President, I would urge Turkey's government to pursue political solutions to the Kurdish situation. So as not to be criticized for simply pointing out the problem without offering my own thoughts on a solution, I will share some thoughts on defusing the mounting crisis. I believe a key element of any political approach must be official willingness to distinguish between PKK terrorism and nonviolent expression promoting rights for Turkey's Kurdish citizens. Similarly, the PKK must abandon the use of violence for political objectives and renounce aspirations for outright independence. A bilateral ceasefire could be a first step toward establishing a political dialog, not with the PKK, but with moderate Kurdish elements. In such a climate, I would urge the Turkish Government to take the following steps:

First, allow all nonviolent political parties to participate in political life.

Second, abolish restrictions on free expression including those within the Antiterror law.

Third, repeal the state of emergency.

Fourth, dismantle the village guard system.

Fifth, remove all restrictions on Kurdish linguistic and cultural expression.

Sixth, lift constraints on dissemination of Kurdish language television and radio broadcasts, print, music, and other mediums.

Seventh, develop a government-sponsored Institute of Kurdish Studies and allow schools to offer instruction in Kurdish, and

Eighth, convene an official, high-profile, conference examining all aspects of Turkish-Kurdish relations.

Mr. President, I believe such actions would bolster Turkey's civilian democracy, stem violence, marginalize the PKK by providing moderate alternatives, lift an oppressive climate which has stifled political and economic life throughout Turkey, and begin to reverse the destructive polarization of Turks and Kurds. I sincerely hope Turkey's government will seek to protect free speech and pursue nonmilitary approaches to the Kurdish dilemma to avoid plunging the nation into further turmoil.●

THE BIOMATERIALS ACCESS ASSURANCE ACT

● Mr. MCCAIN. Mr. President, I am pleased to cosponsor S. 2215, the Biomaterials Access Assurance Act of 1994. This important bill would help to ensure the continued availability of materials for a wide variety of life-saving medical devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers.

Currently, the manufacturers and suppliers of such materials are subject to substantial legal liability for providing relatively small amounts of materials which generate small profits and are used for purposes beyond their control. This bill would substantially reduce their potential liability, and allow them to make their essential materials available. It will thereby address one important aspect of our broken medical products liability system.

This issue recently came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her 7-year-old daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Our bill would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act quickly to pass the Biomaterials Access Assurance Act of 1994 to ensure that the lives of Tara and thousands of other Americans are not jeopardized. I request that a New York Times article which was reprinted in the Arizona Republic entitled "Implant Makers Facing Loss of Raw Materials," be included in the RECORD following my remarks.

The article follows:

[From the Arizona Republic, Apr. 25, 1994]

IMPLANT MAKERS FACING LOSS OF RAW MATERIALS: CHEMICAL FIRMS SAY LAWSUITS FORCING HAND

CHICAGO.—Big chemical companies and other manufacturers of materials used to make heart valves, artificial blood vessels and other implants quietly have been warning medical-equipment companies that they intend to cut off deliveries because of fears of lawsuits.

The suppliers' new policies have not yet forced important products from the market, but medical-equipment manufacturers scrambling to protect themselves from the impending cutoffs say they are having trouble lining up replacement suppliers.

Industry executives and doctors say the trend eventually could make some lifesaving implants hard to come by and have a devastating effect on the development of new devices.

About 100 equipment companies already have had supply problems, according to the Health Industry Manufacturers Association, a Washington-based trade group for the equipment makers.

The materials manufacturers, including such giants as E.I. du Pont and Dow Chemical Co., are dropping the medical business in response to the high risk of being dragged into lawsuits filed against implant makers by consumers who say they have been injured by defective products.

Suppliers already have been named in hundreds of suits involving jaw implants, silicone breast implants and other devices.

Equipment makers say the litigation that has spurred the suppliers' withdrawals also has made it harder to obtain the materials indirectly through distributors or other middlemen.

In addition, some equipment companies say electronics companies and other important subcontractors that assemble high-tech components for the most-sophisticated implants increasingly are reluctant to take on such business.

"You can see a monster scenario where this gets totally out of hand," said Curtis Holmes, vice president for technology at Wilson Greatbatch Ltd. of Clarence, N.Y., a supplier of lithium batteries for heart pacemakers.

Wilson is scrambling to replace the pinch of Du Pont Teflon it uses in each battery. Replacing the Teflon ultimately could cost as much as $300,000 in testing and regulatory hearings and take researchers away from developing products. But that is not what really worries Holmes.

"What if the lithium companies decide they don't want to sell to us?" he asked. "Or the iodine, stainless-steel or titanium producers?"

Despite behind-the-scenes lobbying, equipment makers and medical groups so far have raised little concern in Washington about the trend.

Consumer groups say the chemical companies' moves simply are part of a broader campaign by industry to pressure Congress to limit the redress available in courts for those injured by defective products.

One leading supporter of product-liability-reform legislation is convinced the implant makers' plight is a special case.

"This is a public-health time bomb," said Sen. Joseph Lieberman, D-Conn., who said he hopes to hold hearings on the subject next month.

Lieberman said that although the proposed changes in product-liability laws would reduce materials suppliers' exposure to lawsuits, the problem might have to be dealt with in health-care-reform legislation being written on Capitol Hill.

The medical-equipment makers fear that partial protection from litigation will not be enough to bring back the big chemical and plastics suppliers, because they have so little to gain from the medical business.

Medical devices typically use small quantities of raw materials, compared with other applications.

Polyester yarn, for example, is used in artificial blood vessels, heart valves and sutures left in the body after internal surgery. Total annual sales for such uses are less than $200,000, a tiny fraction of 1 percent of the $9 billion market for such yarn in clothing, homes and industry, according to a recent study for the Health Industry Manufacturers Association.

Another material withdrawn by Du Pont and Hoechst Celanese is polyacetal resin. The automotive, industrial, plumbing and consumer-products sectors buy $1.3 billion of it annually; the implant industry buys just 550 pounds, valued at $3,300, for use in heart valves.

Pelletrane, a polyurethane that Dow Chemical began pulling from the medical market in 1990, is used in such products as automobile hoses and athletic shoes.

The medical market is so small that Dow said it did not realize that companies such as Medtronic Inc., the world's largest pacemaker manufacturer, used Pelletrane as a coating until three years after Dow acquired the business from Upjohn Co. in 1985.

In the past, companies such as Du Pont have made products available to medical companies accompanied by warnings that they had not been tested in any way to establish their suitability for medical applications.

"Everything is manufactured for industrial and consumer purposes," said Katherine Knox, the manager overseeing Du Pont's transition toward cutting off all such sales. "But for 30 years, we had a policy that we wouldn't withhold materials from the medical sector because we didn't want to inhibit development." ●

TRIBUTE TO DR. RUTH SULLIVAN

● Mr. ROCKEFELLER. Mr. President, it is with great pleasure and pride that

I rise to recognize an outstanding West Virginian, Dr. Ruth Sullivan.

Fifteen years ago, Dr. Sullivan founded Autism Services Center—CRS—in Huntington, WV, at her dining room table. Currently, Dr. Sullivan is the director of the center and has spent her life advocating for services for autistic individuals. Ruth Sullivan turned a personal crisis into a dream of hope for countless others. She was trained as a nurse but when her 2-year-old son, Joseph, was diagnosed as autistic, she knew little about the disorder. However, instead of accepting the doctor's statement that nothing could be done for Joseph, Ruth Sullivan began researching. That research, along with a supportive family saved Joseph from an institution and helped him lead his own life.

At first, her goal was personal—to help her son. But, it was a 13-year-old, Katrina, who led her into direct services. Katrina was too aggressive to love at home and had been discharged from the last facility as not appropriate for our service. Katrina went to Dr. Sullivan in early November 1983, funded by the West Virginia Department of Health. This is when Dr. Sullivan began her residential services' program with a 2:1 staff client ratio, 24 hours a day. She hired a 14-member staff and rented an apartment.

Currently, the Autism Services Center has 220 employees and serves over 315 individuals with developmental disabilities as well as their families, guardians, or foster parents. The ASC now serves mentally retarded and developmentally disabled for Cabell, Wayne, Lincoln, and Mason Counties and operates six group homes in Huntington. Furthermore, it serves as a national and international clearinghouse for autism information.

On May 13, ASC celebrated its 15th anniversary. I am sure that my colleagues and my fellow West Virginians join me in congratulating Dr. Ruth Sullivan for her determination and dedication. The ASC has seen remarkable growth, received national exposure, and has helped hundreds of individuals with autism and other developmental disabilities discover their potential.●

CONGRATULATIONS, CORPUS CHRISTI COUGARS

● Mr. LUGAR. Mr. President, I rise today to recognize the girls 7th and 8th grade basketball team of Corpus Christi Parish School in South Bend, IN, for their 100th straight victory.

On Monday, March 28, 1994, the Corpus Christi Cougars rallied under coach Wayne Superczynski to defeat Christ the King 44–42, notching their 100th consecutive win. This streak has lasted through six different teams and three head coaches. Former head coach Lou Megyese began the series of wins by leading the Cougars to 50 straight victories. Donald Ciesiolka continued the pattern for an additional 14 in 1992. Current head coach, Wayne Superczynski, then took over the streak and led the girls to their 100th victory in a row.

I congratulate the Corpus Christi Cougars on their many seasons of excellence, in the Hoosier tradition of basketball. I further commend the players, coaches, and supporters for their dedication and enthusiasm, which has fostered an outstanding program in girls basketball.●

FACES OF THE HEALTH CARE CRISIS

● Mr. RIEGLE. Mr. President, I rise once again in my continuing effort to put a human face on the health care crisis in America. Today I would like to tell the story of Carol Kuiper of Jenison, MI.

Carol will celebrate her 30th birthday this July. Like so many young people across our country, Carol has spent a significant proportion of her young-adult years without health care insurance. Her story will make clear why, under our current health care system, going without health coverage, and therefore, without health care, is a choice so many young people make. But this choice leaves all of us vulnerable for the costs of their emergency care.

Carol entered Hope College in the fall of 1983 at age 19. She worked part time throughout her college years to pay for her education. As a dependent, she was covered by her parents health insurance until she turned 21. After that she went without health insurance.

While she was in school, Carol began to experience migraine headaches. She did not seek treatment immediately because she could not afford to pay any additional expenses, including medical bills. Her college infirmary was available for minor medical assistance free of charge, but was not equipped to offer treatment for migraine headaches. The infirmary nurse advised Carol to seek the help of a neurologist. The severity of the pain eventually compelled her to make an appointment. However, she walked out without seeing the specialist after she was told she must pay $90 that day for a consultation.

Other than experiencing migraines several times a month, Carol was healthy. She considered herself lucky because she did not get sick often. But if she had needed emergency treatment she could not have paid for it.

After graduating from college with a degree in German in the spring of 1989, Carol held a series of part-time jobs which did not offer insurance. These included waitressing and working in a greenhouse. In September of that year she was hired as a full-time employee in a department store, preparing visual displays. She finally had affordable health insurance coverage at a cost of $70 a month with a $10 copay on doctor's visits and prescriptions.

My colleagues may know that retail can be a very stressful business. After working for 4 years, Carol left the visual display job in June of 1993 because she could no longer handle the high stress of the position. She had the option of continuing her insurance coverage under COBRA, but, without assured full-time income and in addition to her student loan payments, she could not afford the $160 a month premium plus the required payments.

Not wanting to be completely without coverage, Carol did take out catastrophic coverage as a safety net. She paid $193 for 6 months of coverage. There was a $250 deductible for every catastrophic injury or illness. Although she now had coverage for a major accident or hospitalization, she was uninsured for minor illness or injuries and preventive treatment. Her migraine medication cost her an additional $70 a month, which she could not afford, she stopped treating her migraines. She has gone without normal medical visits when she had experienced tendinitis and sore throats.

In September 1993 Carol again found a job in retail, working part time at minimum wage. Again, she was not offered, and could not afford to purchase on her own, comprehensive health coverage. While working at this part-time job, she continue her effort to find full-time work which provided health care benefits.

In January of 1994, frustrated by the idea that she was paying for coverage that did not meet her basic health care needs, she opted to not renew the policy. Carol did this, knowing that if she were in any sort of accident or developed a more serious health condition, she would have no way to pay for her care.

I am pleased to report that Carol has recently been offered a full-time job which she will begin later this month. The position, again in retail, offers affordable health care benefits. But the benefits will not start until she has worked for 6 months. Although she must wait, Carol is happy to know she will have access to affordable health care. She is currently in the process of deciding whether to choose an HMO or a fee-for-service plan.

Carol's story is not unlike that of many of our young people. They realize the importance of having health insurance, but just cannot afford the cost. We need to help Carol and other young working people obtain affordable health care coverage so that they are not subject to the constant worry of becoming ill or of being in an accident. I will continue to work with my colleagues in the Senate to craft a health reform package that covers everyone.●

COMMENDING FIRST-GRADERS

• Mr. DURENBERGER. Mr. President, one of the most enjoyable aspects of my 16 years of service in the U.S. Senate has been the opportunity which it affords to recognize outstanding Minnesotans. This past Friday, one such group of first-graders representing Christ the King-St. Thomas the Apostle School was recognized for its achievements by being named a finalist for the 1994 Toshiba-NSTA ExploraVision Awards.

This competition, sponsored by Toshiba Corp. and administrated by the National Science Teachers Association, is designed to foster science learning. It challenges teams of students from across the United States and Canada to select a technology which currently exists and envision what it will look like 20 years in the future.

The technology which the students visualized was entitled "Smart Eyeglasses," and consisted of voice-activated eyeglasses that solve math problems before your very eyes, on the inside of your lenses. It is innovative thinking such as this which will assist these gifted young people in leading our Nation into the 21st century.

I hope my colleagues will join me in offering congratulations to the following gifted students who have shown us the power of the human mind: Jessica Friedlander, Rebecca Heistad, Zachary Morris, Bryn Thompson, and instructor J. Diane Wielinski.•

PARTNERSHIP FOR PEACE

• Mr. DECONCINI. Mr. President, in an historic marking of the anniversaries of the creation of NATO and Nazi Germany's attack on the USSR, the Russian Federation has joined Partnership for Peace [PFP]. Although NATO rejected any special formal conditions for Russia's entry, which could have been interpreted as a right to have a say in NATO decisionmaking, NATO foreign ministers have promised Moscow a relationship that goes beyond the purely military dimension of PFP. The joint declaration on Russia's entry recognizes Russia's significance, and NATO will consult with Russia on European security.

Many Russian politicians opposed joining the PFP. Not surprisingly, the Communist Party, and nationalist hardliners, such as Vladimir Zhirinovsky, bitterly protested the invitation as a national humiliation. Less expected, however, was the assessment of former Russian Ambassador to Washington, Vladimir Lukin, now the chairman of the Foreign Affairs Committee of the Russian Duma. He also objected to Russian accession, likening it last March to a rape of Russia. In fact, with anti-American sentiments increasingly popular today in Russian politics, plans to schedule joint United States-Russian maneuvers had to be canceled last month, and it seemed doubtful that Russia would join PFP.

Nevertheless, President Yeltsin and his Government have evidently decided that entry offers more pluses than minuses. Some commentators theorize that the Russian military did not want to be left out of security consultations, others fear that Russia will try to use its membership to curtail NATO's military and political options in crisis situations like Bosnia. Still others worry that Russia will attempt to realize its publicly stated hopes to turn NATO into the military arm of the CSCE, or will seek—or, in the worst case scenario, may have already received—tacit understanding from NATO about Russian peacekeeping operations in the Commonwealth of Independent States.

Mr. President, we must be mindful of these concerns, particularly the latter. It is especially important that the entry into PFP of the East-Central European countries and many former Soviet Republics be used to foster respect for the sovereignty and independence of all the member states. Though not formally an alliance system, PFP nevertheless presumes certain fundamental common values among participants, and it would defeat the very purpose of the enterprise if some members felt as threatened by their neighbors, or by their perception of their neighbors' intentions, as they did before joining.

These qualifications notwithstanding, I welcome Russia's entry into PFP. Having Russia in the West's new security arrangements is a positive breakthrough. It is preferable to worry about the implications of Russia in PFP than to have to worry about the consequences of Russia remaining outside, feeling isolated and threatened.•

CONGRATULATING THE HOUSTON ROCKETS FOR WINNING THE NBA CHAMPIONSHIP

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 232, a resolution to congratulate the Houston Rockets for winning the NBA championship, submitted earlier today by Senators HUTCHISON and GRAMM, that the resolution be deemed agreed to and the motion to reconsider laid upon the table, and the preamble agreed to, and any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 232) was deemed agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 232

Whereas the Houston Rockets began the 1993–94 season with a 15–0 start, tying the NBA record;

Whereas the Rockets finished the 1993–94 season with a 58–24 record, second best in the NBA, and won the Midwest Division for the second consecutive year;

Whereas second-year coach Rudy Tomjanovich and his assistants helped transform the Rockets from a solid playoff team into the NBA's best;

Whereas Hakeem Olajuwon was named the NBA's most valuable player for the regular season, defensive player of the year, and most valuable player of the NBA Finals;

Whereas the Rockets won a hard-fought seven game series with the New York Knicks in which each game was decided by less than ten points;

Whereas the Rockets gave the City of Houston its first NBA Championship, a unique and special accomplishment in Houston sports history; Now therefore be it

Resolved, That the Senate congratulates the Houston Rockets for their outstanding heart, resolve, and determination in winning the 1994 National Basketball Association Championship.

ORDERS FOR TOMORROW

Mr. NUNN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, June 24; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately following the announcements of the chair, the Senate vote on a motion to instruct the Sergeant-at-Arms to request the presence of absent Senators, without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the motion to instruct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NUNN. Mr. President, I now ask for the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

RECESS UNTIL FRIDAY, JUNE 24, 1994, AT 9:30 A.M.

Mr. NUNN. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:43 p.m., recessed until Friday, June 24, 1994, at 9:30 a.m.